United States Court of Appeals for the Second Circuit



JOINT APPENDIX

ORIGINAL

76-7060

United States Court of Appeals

FOR THE SECOND CIRCUIT

B

THE SANKO STEAMSHIP CO., LTD.,

Plaintiff-Appellant,

against

P/5

NEWFOUNDLAND REFINING COMPANY, LIMITED, NEWFOUNDLAND REFINING COMPANY LIMITED U.S.A., PROVINCIAL BUILDING COMPANY LIMITED, PROVINCIAL REFINING COMPANY LIMITED, PROVINCIAL HOLDING COMPANY LIMITED and SHAHEEN NATURAL RESOURCES COMPANY, INC.,

Defendants-Appellees.

On Appeal from the United States District Court, For the Southern District of New York

JOINT APPENDIX

BIGHAM ENGLAR JONES & HOUSTON Attorneys for Plaintiff-Appellant 99 John Street New York, New York 10038 (212) 732-4646

Manning, Carey & Redmond Attorneys for Defendants-Appellees 122 East 42nd Street New York, N. Y. 10017

(212) 867-1040



PAGINATION AS IN ORIGINAL COPY

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DOCKET ENTRIES

PLAINTIFFS

THE SANKO STEAMSHIP CO. LTD.

DEFENDANTS

NEW FOUNDLAND REFINING CO. LTD.
NEWFOUNDLAND REFINING CO. LTD.
PROVINCIAL BUILDING CO. LTD.
PROVINCIAL REFINING CO. LTD.
PROVINCIAL HOLDING CO. LTD.
SHAHEEN NATURAL RESOURCES CO. INC.

CAUSE

Breach of contract -Marine- Failure to pay charter hire by defts under the terms & conditions of three (3) charter parties entered into with pltf. on Aug. 8, 1972.

rb

ATTORNEYS

BIGHAM ENGLAR JONES & HOUSTON 99 John St., NYC 10038 732-4646 Manning, Carey & Redmond 122 East 42nd St. N.Y.C. 10017-867-1040

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Docket Entries

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Docket Entries

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△ 4
COMPLAINT

UNITED	STATES	DISTRI	CT COURT	7	
SOUTHER	RN DIST	RICT OF	NEW YOR	RK	
				X	

THE SANKO STEAMSHIP CO., LTD.,

Plaintiff,

COMPLAINT

-against-

75 Civ.

NEWFOUNDLAND REFINING COMPANY, LIMITED, NEWFOUNDLAND REFINING COMPANY LIMITED U.S.A., PROVINCIAL BUILDING COMPANY LIMITED, PROVINCIAL REFINING COMPANY LIMITED, PROVINCIAL HOLDING COMPANY LIMITED and SHAHEEN NATURAL RESOURCES COMPANY, INC.,

Defendants.

Plaintiff, THE-SANKO STEAMSHIP CO., LTD., by its attorneys, BIGHAM ENGLAR JONES & HOUSTON, for its complaint against defendants, respectfully allege upon information and belief as follows:

- 1. This is an Admiralty and Maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure.
- 2. At all relevant times plaintiff was and still is a legal entity organized and existing under and by virtue of the Laws of the Empire of Japan.
- 3. At all relevant times all defendants except SHAHEEN NATURAL RESOURCES COMPANY, INC. and NEWFOUNDLAND REFINING COMPANY LIMITED U.S.A. were and still are corporations organized and existing under and by virtue of the Laws of the Province of Newfoundland,

Canada; NEWFOUNDLAND REFINING COMPANY U.S.A. being organized under the Laws of the State of Delaware and SHAHEEN NATURAL RESOURCES COMPANY, INC. being organized under the Laws of the State of Illinois.

- 4. At all relevant times the defendants were and still are affiliated, related and/or subsidiary companies, having common directors and officers and all subject to common control.
- 5. On August 8, 1972 defendants, by and through NEWFOUNDLAND REFINING COMPANY, LIMITED, entered into a time charter party with plaintiff for the time charter of a newbuilding to be designated for a period of 10 years, 14 days more or less at charterer's option; that plaintiff delivered under said charter the tank vessel KYOKKO MARU, which is currently performing thereunder.
- 6. On August 8, 1972 defendants, by and through NEWFOUNDLAND REFINING COMPANY, LIMITED, entered into a time charter party with plaintiff for the time charter of a newbuilding to be designated for a period of 9 years, six (6) months, 14 days more or less at charterer's option; that plaintiff delivered under said charter the tank vessel ELEFTHEROUPOLIS, which is currently performing thereunder.

- 7. On August 8, 1972 defendants, by and through NEWFOUNDLAND REFINING COMPANY, LIMITED, entered into a time charter party with plaintiff for the time charter of a newbuilding to be designated for a period of 8 years, 14 days more or less at charterer's option; that plaintiff delivered under said charter the tank vessel BARBARA T. SHAHEEN which is currently performing thereunder.
- 8. Plaintiff has duly performed and is performing all of its obligations under the said time charters but defendants have failed to pay charter hire when due amounting to, in the aggregate, \$8,112,323.68 as of the date hereof, although due demand has been made therefor by plaintiff.

WHEREFORE, plaintiff demands judgment against defendants in the sum of \$8,112,323.68, together with the costs and disbursements of this action.

BIGHAM ENGLAR JONES & HOUSTON

Attorneys for Plaintiff

A Member of the Firm

Office and P.O. Address 99 John Street

New York, N.Y. 10038

(2) 732-4646

A 7

ORDER TO SHOW CAUSE FOR AN ORDER OF ATTACHMENT WITH TEMPORARY RESTRAINING ORDER

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

THE SANKO STEAMSHIP CO., LTD.,

: ORDER TO SHOW CAUSE FOR AN : ORDER OF ATTACH-

ORDER OF ATIVE MENT WITH

: TEMPORARY RESTRAINING

ORDER

-against-

NEWFOUNDLAND REFINING COMPANY, LIMITED, NEWFOUNDLAND REFINING COMPANY LIMITED U.S.A., PROVINCIAL BUILDING COMPANY LIMITED, PROVINCIAL REFINING COMPANY LIMITED, PROVINCIAL HOLDING COMPANY LIMITED and SHAHEEN NATURAL RESCURCES COMPANY, INC.,

76 CW 756

Defendants.

Plaintiff,

Upon reading the complaint and the affidavit of SHELDON A. VOGEL, sworn to the 17th day of February 1976 herein, it appears that a cause of action for a judgment in a liquidated amount exists in favor of the plaintiff against the defendants to recover a sum of money, namely, the sum of \$8,112,323.68, tegether with interest and costs as damages for failure to pay charter hire in the aforesaid amount under the terms and conditions of three (3) charter parties dated August 8, 1972 for the vessels KYOKKO MARU, ELEFTHEROUPOLIS and EARBARA T. SHAHEEN as described in the complaint, and plaintiff is entitled to recover said sum over and above any and all counterclaims, and it satisfactorily appearing to the Court from said affidavit that one of the grounds for attachment, that

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Order to Show Cause for an Order of Attachment with Temporary Restraining Order

defendants are foreign corporations, set out in CPLR §6201, and one of the grounds for a temporary restraining order pursuant to Rule 65 of the Federal Rules of Civil Procedure, that the immediate and irreparable injury of a transfer of funds by defendants will vitiate the attackent sought by plaintiff and the reason for not providing notice to defendants is to prevent said transfer prior to a hearing on plaintiff's application for attackment, exists in favor of plaintiff against the defendants to recover the said sum of money, it is, therefore, on motion of BIGHAM ENGLAR JONES & HOUSTON, attorneys for plaintiff,

before the Honorable Judge WHITMAN KNIAPD, of the United States District Court for the Southern

District of New York at the Court House thereof at Foley Square, New York, New York, on the 20 day of February, 1976, at 2:00 o'clock p.m. of that day or gos as soon thereafter as counsel can be heard why an order should not be made herein granting the plaintiff's motion for an order of attachment;

ORDERED that pending the hearing thereof defendants are temporarily restrained from removing, releasing or secreting \$3,000,000 from each or any of their bank accounts or removing, releasing or secreting \$3,000,000 of any securities and/or credits held for the account of or in-the name of the aforesaid defendants

Order to Show Cause for an Order of Attachment with Temporary Restraining Order

either individually or jointly with the Sumitomo Bank,
Ltd., One World Trade Center, Suite 9551, New York, N.Y.,
the European-American Bank & Trust Co., 10 Hanover Square,
New York, N.Y. and 90 Park Avenue, New York, N.Y. and
Manufacturers Hanover Trust Company, 4 New York Plaza,
New York, N.Y., or any other financial institutions of
any nature whatsoever and wheresoever located within
the jurisdiction of this Court said amount to be a
cumulative amount of funds credits and/or securities
belonging to the defendants in any of their accounts
at the aforesaid banks;

ORDERED that the Sumitomo Bank, Ltd., the European-American Bank & Trust Co. offices as above named and Manufacturers Hanover Trust Company be temporarily restrained from removing or releasing up to an amount of \$3,000,000 which said banks may be holding for defendants in any manner whatsoever including, but not linked to bank accounts and/or negotiable credits or securities which said banks are holding for the defendants.

ORDERED that the within temporary restraining orders against the defendants shall expire at $\frac{4}{100}$ o'clock $\frac{1}{100}$ and $\frac{1}{100}$ day of $\frac{1}{100}$ 1976;

Δ 10

Order to Show Cause for an Order of Attachment with Temporary Restraining Order

AND ORDERED that the Sumitomo Bank, Ltd., European-American Bank & Trust Co. offices as above named and Manufacturers Hanover Trust Company are to make available to plaintiff all records indicating the transfer of funds into and out of the accounts of defendants with them from November 30, 1975 up to and including the date of this Order;

AND ORDERED, that security in the amount of \$200,000 be posted by the plaintiff prior to february 18, 196, at 12 cisloshing to noon of that day;

AND IT IS FURTHER ORDERED that service of

on defendants on or before the day of February;

Dated: New York, New York

february 17

1976

Issued At

H WHIMAN KRAPP

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Order to Show Cause for an Order of Attachment with Temporary Restraining Order

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been eleminated without prejudice

for its renewal upon the return

date of their motion. The return

date of their him set without

prejudice to an application for

reacheration Thereof by defendants

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TU.S.D. J.

Cel 17 1976

AFFIDAVIT OF SHELDON A. VOGEL IN SUPPORT OF MOTION

SOUTHERN DISTRICT OF NEW YORK	X	
	X	
THE SANKO STEAMSHIP CO., LTD	., :	
Pla	intiff, :	
-against-	:	AFFIDAVIT
NEWFOUNDLAND REFINING COMPAN NEWFOUNDLAND REFINING COMPAN	Y, LIMITED, : Y LIMITED	
U.S.A., PROVINCIAL BUILDING LIMITED, PROVINCIAL REFINING	COMPANY :	
LIMITED, PROVINCIAL HOLDING LIMITED and SHAHEEN NATURAL	COMPANY :	***************************************
COMPANY, INC.,	•	
Def	endents. :	
	-,X	
STATE OF NEW YORK) : SS.:		
COUNTY OF NEW YORK)		

SHELDON A. VOGEL, being duly sworn, deposes and says:

- 1. That he is a member of the firm of BIGHAM ENGLAR JONES & HOUSTON, attorneys for plaintiff herein, and that he is fully familiar with all of the proceedings herein.
- 2. That he makes this affidavit in support of plaintiff's motion for an order to show cause with a temporary restraining order why an order of attachment shall not be granted herein.
 - 3. That this action was commenced by the

filing of a complaint and the issuance of summonses by this Honorable Court on February , 1976 (a copy of which is annexed hereto as Exhibit A). Issue has not yet been joined as defendants' answering time has not expired.

- 4. Upon information and belief, plaintiff is a corporation organized and existing under and by virtue of the laws of the Empire of Japan. All defendants, except NEWFOUNDLAND REFINING COMPANY LIMITED U.S.A. and SHAHEEN NATURAL RESOURCES COMPANY, INC., are corporations organized and existing under and by virtue of the Laws of the Province of Newfoundland, Canada. NEWFOUNDLAND REFINING COMPANY LIMITED U.S.A. is a corporation organized and existing under and by virtue of the Laws of the State of Delaware, with its principal offices at 90 Park Avenue, New York, N.Y., and SHAHEEN NATURAL RESOURCES COMPANY, INC. is a corporation organized and existing under and by virtue of the State of Illinois.
- 5. Upon information and belief, at all relevant times defendants were affiliated, related and/or subsidiary companies having common directors and officers and all subject to common control.
- 6. As set forth in plaintiff's complaint, plaintiff is asserting a cause of action against the

defendants for failure to pay charter hire in the aggregate amount of \$8,112,323.68 due plaintiff under the terms and conditions of three (3) charter parties dated August 8, 1972 for the vessels S.S. KYOKKO MARU, S.S. ELEFTHEROUPOLIS and S.S. BARBARA T. SHAHEEN entered into between plaintiff and defendants, through and by NEWFOUNDLAND REFINING COMPANY LIMITED.

- 7. Upon information and belief, the Sumitomo Bank, Ltd., One World Trade Center, Suite 9651, New York, N.Y., the European-American Bank & Trust Co., 10 Hanover Square, New York, N.Y. and 90 Park Avenue, New York, N.Y. and Manufacturers Hanover Trust Company, 4 New York Plaza, New York, N.Y., have in their possession or under their control moneys and/or credits and/or securities belonging to defendants.
- 8. Defendants as aforesaid are foreign corporations, and plaintiff seeks an order of attachment pursuant to Rule 64 of the Federal Rules of Civil Procedure, which provides as follows:

"Seizure of personal property. At the commencement of and during the course of an action, all remedies providing for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action are available under the circumstances and in the manner provided by the law of the State in which the District Court is held, existing at the time the remedy is sought, subject to the

following qualifications: (1) any existing statute of the United States governs to the extent to which it is applicable; (2) the action in which any of the foregoing remedies is used shall be commenced and prosecuted or, if removed from a State Court, shall be prosecuted after removal, pursuant to these Rules. The remedies thus available include arrest, attachment, garnishment, replevin, sequestration, and other corresponding or equivalent remedies, however designated and regardless of whether by State procedure a remedy is ancillary to an action or must be obtained by independent action."

9. Section 6201 (1) of the Civil Practice Law and Rules of the State of New York provides as follows:

"Grounds for Attachment. An order of attachment may be granted in any action, except a matrimonial action, where the plaintiff has demanded and would be entitled, in whole or in part, or in the alternative, to a money judgment against one or more defendants, when: (1) the defendant is a foreign corporation or not a resident or domiciliary of the State; or * * *"

- money judgment in a liquidated amount and defendants are not believed to have a counterclaim arising out of the aforementioned contracts. In fact, defendants have never challenged that the aforesaid amount is due and owing plaintiff but have merely stated their inability to pay the same.
- ll. It is necessary to proceed against the defendants in this manner and to seek a temporary restraining order against the aforesaid banks listed in

Δ 16

Affidavit of Sheldon A. Vogel

Paragraph 7 pending a hearing as requested in the attached order because of the decision in this Court of Bert Randolph Sugar v. Curtis Circulation Company, 383 F. Supp. 643 (S.D.N.Y. 1974), which has held that an attachment pursuant to §6201(1) of the CPLR may be invalid unless the proceeding is made on notice. A temporary restraining order is necessary to prevent the transfer of funds during the interval between service of this order and the hearing requested. If the temporary restraining order sought here is not granted, plaintiff will suffer immediate and irreparable injury. To prevent transfer of funds it is necessary that this order be granted without notice, and, therefore, no efforts to notify defendants have been made by deponent.

12. No previous application for the same or similar relief has been made before this or any other Court.

WHEREFORE, your deponent respectfully requests that the within order to show cause why an order of attachment of defendants' funds within this jurisdiction should not be granted and that this Court shall temporarily restrain the defendants from transferring funds pending the hearing of this application.

Sheldon a Vogel

(Sworn to February 17, 1976)

A 17

EXHIBIT A--COMPLAINT ANNEXED TO AFFIDAVIT OF SHELDON A. VOGEL

Identical to Complaint printed herein at pages A4 to A6.

Δ 18

EXHIBIT A--SUMMONS ANNEXED TO AFFIDAVIT OF SHELDON A. VOGEL

United States District Court

FOR THE SOUTHERN DISTRICT OF NEW YORK

CIVII	ACTION	FILE NO.	
CIVIL	1011014	4 1 1 1 1 1 1 1 1 1 1 1 1	

THE SANKO STEAMSHIP CO., LTD.,

76 CIV 756

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SUMMONS

Plaintiff

MEMPOUNDLAND REFINING COMPANY LIMITED, MEMPOUNDLAND REFINING COMPANY LIMITED, U.S. PROVINCIAL BUILDING COMPANY LIMITED, PROVINCIAL REFINING COMPANY LIMITED, PROVINCIAL HOLDING COMPANY LIMITED and SHAHZEM HAPURAL RESOURCES COMPANY, INC.,

Defendant

To the above named Defendant S

You are hereby summoned and required to serve upon

BIGHAM ENGLAR JONES & HOUSTON

plaintiff's attorney , whose address is 99 John Street, New York, N.Y. 10038

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Clerk of Court.

Deputy Clerk.

Date:

2-17-76

[Seal of Court]

A 19

AFFIDAVIT OF ROY M. FURMARK IN OPPOSITION TO MOTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE SANKO STEAMSHIP_CO., LTD., :

-against-

LIMITED and SHAHEEN NATURAL RESOURCES

NEWFOUNDLAND REFINING COMPANY, LIMITED, : Index No. 76 CIV 756
NEWFOUNDLAND REFINING COMPANY LIMITED

U.S.A., PROVINCIAL BUILDING COMPANY
LIMITED, PROVINCIAL REFINING COMPANY
LIMITED, PROVINCIAL HOLDING COMPANY
:

Defendants.

Plaintiff,

STATE OF NEW YORK) ss.:

COMPANY, INC.,

Roy M. Furmark being duly sworn, deposes and says:

- 1. This affidavit is filed in opposition to the plaintiffs
 Motion herein for an Order of Attachment and in support of
 vacatur of this Court's Temporary Restraining Order contained
 in the Order to Show Cause dated February 17, 1976.
- 2. I am, and have been at all relevant periods referred to in the complaint herein, Executive Vice President of defendant Newfoundland Refining Company Limited, a Newfoundland corporation (herein "NRC"), and I know of the facts stated herein.
- 3. In such capacity I executed the Charter Parties dated August 8, 1972, for the vessels KYOKKO MARU, ELEFTHEROUPOLIS and BARBARA T. SHAHEEN referred to in the Complaint attached to the affidavit of Seldon A. Vogel (herein the "Vogel affidavit").
 - 4. Attached hereto as Exhibits 1, 2 and 3 are Charter

Affidavit of Roy M. Furmark

Parties for, respectively, the KYOKKO MARU, ELEFTHEROUPOLIS and BARBARA T. SHAHEEN, as described in the complaint and the Vogel affidavit, and all are solely between plaintiff and defendant NRC. The said Charter Parties are all dated August 8, 1972, and all contain the following identical provisions:

"40.(a) This charter shall be construed and the relations between the parties determined in accordance with the law of England.

"(b) Any dispute arising under this charter shall be decided by the English Courts to whose jurisdiction the parties agree whatever their domi-

cile may be:

"Provided that either party may elect to have the dispute referred to the arbitration of a single arbitrator in London in accordance with the provisions of the Arbitration Act, 1950, or any statutory modification or re-enactment thereof for the time being in force. Such election shall be made by written notice by one party to the other not later than 21 days after receipt of a notice given by one party to the other of a dispute having arisen under this charter".

- 5. Defendant NRC disputes the amount due plaintiff under the three charters and contends that the amount due can only be determined by an accounting between it and plaintiffs.
- 6. Defendant further contends that under English law it is entitled to an equitable readjustment of the charter rate for each of the three vessels; that other charterers of vessels to defendant NRC did ecognize such right of defendant NRC and did consent to an adjustment of the charter rates; and defendant did request that plaintiff enter into

good faith negotiations for such readjusted charter rates to which request plaintiff failed to respond.

7. Defendant NRC is entitled to a trial of all of these issues in an English Court of law or arbitration and plaintiff is attempting to deprive defendant NRC of that right by bringing this action in the Federal Court in New York, contrary to its contractual agreement that all disputes would be decided by the English Courts or by arbitration in London. I am told the United States Supreme Court has decided that such "forum selection" contract provisions are binding on the parties. The Bremen, et al vs. Zapata Offshore Co., 407 U.S. 1 (1972) and National Rental vs. Szukhent, 375 U.S. 311 (1964). In National Rental and in Bremen the Court held:

"[I]t is settled...that parties to a contract may agree in advance to submit to the jurisdiction of a given court, to permit notice to be served by the opposing party, or even to waive notice altogether...." (407 U.S. 1, 11; 375 U.S. 311, 315-16)

Bremen further held:

"Plainly, the courts of England meet the standards of neutrality and long experience in admiralty litigation. The choice of that forum was made in an arm's-length negotiation by experienced and sophisticated businessmen, and absent some compelling and countervailing reason it should be honored by the parties and enforced by the courts." (407 U.S. 1, 12)

8. Plaintiff has also named as a defendant herein Newfoundland Refining Company Limited U.S.A., incorporated under the laws of Delaware (herein "NRC-USA"); NRC-USA was, at the time the Charter Parties were executed in 1972, a

Affidavit of Roy M. Furmark

dormant "shell" corporation the name of which was SNR Dover, Inc., and it had no connection whatsoever with defendant NRC. In 1974, the name of SNR Dover, Inc. was changed to its present name and at that time it became active as a trading company of light petroleum distillate products, primarily jet fuel and #2 heating oils. NRC-USA is neither a subsidiary of NRC nor a parent of NRC; it is owned by the same parent company as NRC. NRC-USA purchases light petroleum products from NRC and from other, non-affiliated sellers and in turn sells such products to customers in the United States; NRC-USA primarily sells jet fuel to air lines at J.F. Kennedy Airport in New York City; it must arrange for the supply, transportation and delivery of such products and must be responsible to the buyers for meeting the specifications of such products (primarily jet fuel). NRC-USA has never had any dealings with plaintiffs whatsoever, has never transported any product or otherwise used the three vessels referred to in paragraph 2 herein, and is not in any way indebted to plaintiff.

9. Plaintiff has also named as defendants herein
Provincial Building Company Limited (herein "PBC") and
Provincial Refining Company Limited (herein "PRC"). In
1972, when the Charter Parties here involved were executed,
both of these companies were Crown Corporations, owned by the
Government of Newfoundland. Only on October 9, 1973, did
those companies become subsidiaries of NRC. PRC owns a

refinery at Come-By-Chance, Newfoundland, which refinery was constructed by PBC. The business of the refinery is operated by NRC. Neither PBC or PRC has ever had any dealings whatsoever with plaintiff, nor is either of them indebted to plaintiff.

10. Plaintiff has also named as a defendant herein Shaheen Natural Resources Company, Inc., an Illinois corporation (herein "SNR") which, through two tiers of subsidiary companies, owns NRC (that is, SNR is the "great grandparent" of NRC). Eight years ago, on March 20, 1968, SNR, NRC, plaintiff and another Japanese company, Ataka & Co., Ltd. (herein "Ataka") entered into an agreement (Exhibit 4 hereto) for the "construction, bareboat chartering, use under a contract of affreightment and financing of a combination carrier of 135,000-160,000 DWT"; under said Agreement NRC was to be the charterer of the vessel. The only obligation of SNR under the said agreement was Article VI, which required SNR to deposit under an escrow agreement, as security for performance by NRC of its obligations under the contract of affreightment certain securities "which shall be subject to approval by Charterer." SNR was not a guarantor of the performance of NRC under the contract of affreightment. Later, by agreement dated August 8, 197% (Exhibit 5 hereto), the date the instant Charter Parties were executed, plaintiff agreed to cancel the contract of affreightment (paragraph 1) referred to in the March 20, 1968 agreement. The plaintiff gave up its demand for the escrow fund and should not now be heard to

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Affidavit of Roy M. Furmark

make any claim against SNR; SNR is not indebted in any way to plaintiff.

- Provincial Holding Company Limited (herein "PHC"), incorporated under the laws of Newfoundland; PHC is purely a holding company, owning the stock of PRC, which, as pointed out above, has never had any business dealings with plaintiff.

 PHC is not actively engaged in any business and has never had any business dealings whatsoever with plaintiff nor is it in any way indebted to plaintiff.
- 12. Assuming, arguendo, that plaintiff may be able to create some sort of liability of the defendants other than NRC for the monies owed on the Charter Parties, such claims would merely be claims for payment of money, since only NCR is a party to the Charter Parties. In such event, I am advised that this Court would be deprived of jurisdiction, as such money claims are by no stretch of the law claims in admiralty (1 Benedict on Admiralty, \$184). Since plaintiff has a principal office in New York and defendants SNR and NRC also have principal offices in New York there does not appear to be the requisite diversity of citizenship to support this Court's jurisdiction.

WHEREFORE defendants respectfully request that this

Court (1) forthwith dissolve the Temporary Restraining Order

contained in the Order to Show Cause dated February 17th,

1976; (2) and deny in all respects the plaintiff's motion

A 25 Affidavit of Roy M. Furmark

for an order of attachment; and (3) award defendants such damages and costs as may properly be chargeable against plaintiff by reason of this action.

ROY M. FURMARK

Sworn to before me this

1510 PORCER A PARTURED

MALPREMY MUPARTLAND
NOTARY PUBLIC, State of New York
Ma. 41-2638189
Condition in Curate Guesty
Cortificate filed in New York Gourty
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EXHIBIT 1--CHARTER PARTY (KYOKKO MARU) ANNEXED TO AFFIDAVIT OF ROY M. FURMARK

kyokko Maru

Code word for this Charter Party
"SHELLTIME 3"

Issued June 1953

Time Charter Party

MEGGMONK.

YITT

New York, August 8, 1972

It is fijis buy agreed between The Sanko Steamship Company Limited Tokyo, Japan (hereinafter referred to as "Owners"), being Owners of the newbuilding steam good tack vessel called Hitsubishi Heavy Industries Co., Ltd. 2
Hull No. 1701 to be named with Japanese, Liberian, Panamanian or Singapore 1
(hereinafter referred to as "the vessel") described as per clause 24 hereof and Newfoundland Refining Newfoundland Refining Company Ltd. St. John's, Newfoundland (hereinafter referred to as "Charterers"). 1. Owners guarantee that at the date of delivery of the vessel under this charter Description of Vessel Nippon Kaiji Kyokai or equivalent (a) she shall be classed (b) she shall be in every way fitted for burning marine diesel oil or fuel oil with a maximum viscosity of 3500 seconds Redwood 1 at 160 degrees F, in main motors and any communical grade of fuel oil under boilers; and 10,280 Kcal/K.G. (H.C.V.) (c) XDOUGHDANGATH TOURSEXX VESSEL HOLD IN THE WAS ALLEGED TO THE WAS A vessel uncoild Owners shall, before and at the date of delivery of the vessel under this charter, exercise due diligence Condition to make the vessel 14 (a) in every way fit to carry crude petroloum and/or its products; and (b) tight, staunch, strong, in good order and condition, in every way fit for the service, with her machinery, boilers and bull in such a sinte as to obtain the most encount working and with a fell and efficient complement of master, officers and crow for a vessel of her tennage. 15 17 Owners undertake that throughout the period of service under this charter they will, whenever the passage of time, were and tear or any event (whether coming within clause 28 hereof or not) requires steps to be talken to maintain the vessel as stipulated in clause I hereof and in this clause or to restore the vessel to such condition, 18 19 20 exercise due difigence to maintain or restore the vessel as aforesaid, and that they will comply with the regulations in force so as to enable the vessel to pass through the Sucz and Panania Canals by day and night 23 3. Owners agree to let and Charterers agree to hire the vessel for a period of 10 (Ten) years, 14 (Fourteen) days more or less at Charterers option. commencing from the time and date of colivery of the vessel, for the purpose 24 Period and Trading Limits excluding communist and of carrying all lawful merchandise including in particular crude oil and/or its dirty communist controlled petroleum products. countries, Cuba and in any part of the world, as Charterers shall direct, subject to the limits of the current British Institute Warranties and any subjequent emendments thereof, it being understood that Charterers shall not send the vessel to ice-bound waters without Owners' coasent but such coasent shall not be unreasonably withheld. 27 Israel ports, except 25 29 with Owners' prior consent which not to Charterers shall exercise due diligence to easure that the vessel is only employed between and at safe ports, be unreasonably withheld. places, berthe, docks, anchorages and submarine lines where she can always lie safely affoct, but notwithstanding anything contained in this or any other clause of this charter. Charterers shall not be deemed to warrant the safety and the safety 30 31 32 33 34 35 anything contents in this or any other clause of this charter, Charterers shall not be deemed to warrant the safety of any port, place, both, dock, anchorage or submarine line and shall be under no Eability in respect thereof except for loss, or damage caused by their failure to exercise due diligance as aforesaid. Subject as above, the vessel shall be loaded and discharged in any dock or at any whalf or place or anchorage or submarine line or alongside lighters or other vessels as Charterers may direct. 36 a port in Japan or at The vessel shall be delivered by Owners at a port in Japan, or at a point not-37 a port or point not further in distance from Persian Gulf than Japan further in distance from the Persian Gulf at Owners' option and redelivered to Owners at / Owners shall notify Charterers of the than the port of estimated time of delivery in written letter, telex or cable on 30 (Thirty) days at least prior to delivery at Charterers' option. lelivery and

Layday 4. The vessel shall not be delivered to Charterers before August 15, 1973 Cancelline and Charterers shall have the option of a meeling this charter if the vessel is not ready and at their disposal on or before October 15, 1973. 42 5. Owners undertake to provide and to pay for all providens, waves, and diagrams and di charteing fees and all other open as of the master, eggers and crew; also, except as provide and diagrams and 35 feeters, to pay for all insurance on the vice of, for all dieds, calmi and coping-room store, and water, except water for it. I bodies which (and as the vice of it of the coping and coping for by Charteress; and for all familiations expenses and deraination examination examinates a management of the categories in relation to the personal effects of the mater, offerer and crew, and in relation to the precess, provides and other material stored which owners are to provide and or pry for and Owners shall refund to Charteres and surfey or their agents may have paid or been compiled to pay in respect of such highlity. Any amounts allocable in general average for wages and provisions and stores shall be credited to Charterers involute as such amounts are in respect of a period when the vessel is on line. Owners to Hovak 45 46 47 48 49 50 51 52 53 when the vessel is on here Charterers shall provide and pay for all fuel (except galley fuel), towage and pilotage and shall pay 54 55 56 57 6. Characters shall provide and pay for all furt (except palley lett), towage and priorage and shall pay agency fees, burt charges, commissions, expenses of landing and incloading corgoes, canal due; and all charges other than those painble by Owners in accordance with the preceding claus; hereof, provided that all charges for the said items shall be paid by Owners when incurred for Owners purposes, whether the vessel is on hire or off-luce. The foregoing provision as to fuce shall not apply to any first owner on with a general average sacrifice or expenditure or with the preparation for and the drydocking or repair of the vessel which shall in any ment for whith for her Owner. Provide 58 59 60 event be paid for by Owners. 7. Subject as herein provided Charterers shall pay for the use and hire of the vessel at the rate of U.S. \$2.55 (Two United States Dollars and Fifty-Three Cents)

For three Three Cents |

For three Cents | Rate of Hire 61 62 63 8000001 Payment of Hista 67 69 70 71 72 9. The whole reach, burthern and deels of the vessel and its passenger accommodation (which shall be determined in inchesh dividuals) said. If any, shall be at Charterers' disposal, reservant only proper and sufficient space for the vessel's matter, obsers, crow, tookle, apparel, formative, previous and stores, provided that the weight of stores on hand shall and, unless according any exceed 150 tooks are provided that the chirals. The vessel shall had and of those come as majerity as possible by make as well as by day when required by Charterers or that apparent to do so. Charterers may consistently with the rafety of the vessel remove any stanchions and indicate, which shall, if required to their production of Occurs' surveyor, the completed by their before redefinery at their own expense and to the satisfiction of Occurs' surveyor, the Space Available to 73 Chanterers 75 77 and to the satisfiction C. Comers' serveyor. [U.S. Dollars 2700 lumpsum monthly] 83 10. The movies shall protected his voyages with the utmost despatch and shall render all reasonable assistance with the vesself others and crew and equipments overtime pay of the master, officers and crew in accordance with ship's articles being at Charterers' expense when incurred as a result of complying with the Duties of 81 82 83 84 request of Charterers or their agents. 11. The master shall be furnished by Charterers from time to time with all requisite instructions and sailing directions, and shall keep a full and correct log of the voyage or voyages, which shall be open to instruction by Charterers or their agents as required. The master shall furnish Charterers or their agents when recurred to do so with a true copy of such log and with proporty completed leading and discharging port sheets and veyage reports for each voyage and other returns as Charterers impraguing. Charterers shall be entitled to take copies at Owners' expense of any of such documents as are not provided by the muster. Instructions 85 86 87 88 89 and Logs Conduct of If Charterers shall complain of the conduct of the master or any of the officers. Owners and Charterers 91 92 93 jointly shall transferred meeting at the complaint, and if the complaint prose to be well founded, Owners shall, without delay, make a change in the appointments. 'essel's Fersonnel. 13. The matter (although appointed by Owners) shall be under the orders and direction of Charterers as regards employment of the vessel, agency or other arrangements. Bills of hiding are to be signed at any rate of freight Charterers or their agents may direct, without projective to this charter, the master attending as necessary at the offices of Charterers or their agents since from the master. Charterers bereby indemnify Owners praints all consequences or Labilities that may arise from the master. Charterers or their agents signify of Indian or either determines, or from the noster of lavoist complete with Charterers or their agents' offices, as well as from any irregulatines in prises supplied by Charterers or their agents. The send indemnity shall not extend to any consequences or leabilities or aprily to any law or damner arising from orders to proceed to, earth remain in or all deposit from or shall be the in or at any part, place, borth, dock, anchorage or subnating how the from a resisted by failure to exercise due difference as required by clause 3 hereof. Lading 50 91 100 100 Stevedores when required shall be employed and paid by Charterers, but this shall not relieve Owners from responsibility at all times for proper steamer, which must be controlled by the mister, who shall leep a street account of all Green leveled and dredwig. Owners hereby indomnify Charterers, more servants and a pairs, against all losses, of any, responsibilities and destining arrang in any way who toocser from the employment of pilots, imployed or street, and the definition arrang in any way who toocser from the employment of pilots, imployed or street, and the servants and in the serval of Owners and including the serval of Owners are the pilots. Stowage 105 the service of Owners and mider their autricitions.

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	Passioners	15. Character, more rand parton, easin the vertices excitable accommodation upon any voy. C. mode industrials charter, Counts landing provisions and all requisites as supposed to allocate, except liquous, Charterers paying at the rate of	117
	Sub-let	 Charteress way sub-let the vessel, but shall always temain responsible to Owners for the due fulfilment of this charter. 	113
	Infected Area and Infraction of Local Law	17. Owners shall be lighte for any delay in quirtuiting crising from the moster, officers or crea having communication with the share at any infected area without the written consent or instructions of Charteren or their rights, also for any loss of time through detention by customs or other authorities caused by smuggling or other infraction of hand-have on the part of the master, others or crew.	121 122 123 124
	Final Voyage	18. Should the verial be on her voyage towards the port of redelivery at the time a payment of hire is due, payment of hire shall be made for such lingth of time as Owners and Charterers may agree upon as being the estimated time necessary to complete the voyage, less any diabnoments made or expected to be made or expected incurred or expected to be incurred by Charterers for Owners' account and lest the estimated value of broker feel renaising at the termination of the voyage, and when the sexed is redeligered any overpayment shall be refunded by Owners or underpressioned pay Charterers. Notwithstanding the provisions of clause 3 hereof should be vessel be upon a woyage at the expiry of the period of this charter. Charterers shall have the use of the vessel at the same rate and conditions for such extended time as may be necessary for the completion of the round voyage on which she is engaged and her return to a port of redelivery as provided by this charter.	125 126 127 128 129 130 131 132 133
	Loss of Vessel	19. Should the vessel be lost, here shall cease at noon on the day of her loss and, should the vessel be missing, hire shall cease at noon on the day on which she was lost heard of, and any lore good in advance and not earned shall be returned to Charterers. In a port which to be nutually agreed between furnishing and Charterers.	13:
	Laying-up	20. Characters shall have the option of Lyung up the vessif in which case the hue provided for under this charter shall be reduced by the amount by which Owners can reasonably reduce the expenditure otherwise falling upon them under this charter.	137 136 139
	Off-life	21. In the event of loss of time (whether arising from interruption in the performance of the vestel's service or from reduction in the speed of the performance thereof or in any other manner).	140 141
		(a) continuing for more than 24 hours, due to deficiency of personnel or stores, repairs, breakdown (whether partial or otherwise) of machinery or boilers, collision or stranding or accident or damage to the vessel or any other cause preventing the efficient working of the vessel; or	142 163 144
		(b) whether or not continuing for 24 hours,	145
	•	 due to strikes, refusal to sail, breach of orders or neglect of duty on the part of the master, officers or crew; or 	145 147
		(ii) for the purpose of obtaining medical advice or treatment for or landing day sick or injured person (other than a passenger carried under clause 15 licred) or for the purpose of landing the body of any person (other than such a passenger);	143 149 150
		hire shall cease to be due or payable from the commencement of such loss of time until the vessel is again ready and in an efficient state to resume her service from a position not less favourable to Charterers than that at which such loss of time commenced.	151 152 753
-		Any such hers of some which arises wholly or parily from a reduction in the vestel's guaranteed assume speak providing in claim. 2018, reof shall be taken to be the difference between the time tractive would require to perform the relevant service at the soid speed and the time actually taken to perform the same and such loss of time shall be absed to any loss of time shall be absed to any loss of time carriang from interruption in the performance of the vessel's service in order to arrive at the said period of 24 hours.	154 153 155 157 157
		Further and without prejudice to the foregoing, in the exent of the vessel decisting (which expresses includes putting back, or putting into any port other than that to which she is bound under the instructions of Charterers) for any cause or for any purpose previously monomored in this clause, no hir shall in any case be payable as from the commencement of such deviation until the time when the vessels a spain ready and in an officient state to resume her service from a position not less favourable to Charterers than that at which the deviation commenced.	155 163 161 162 163
•		In the event of the vessel, for any cause or for any purpose previously mentioned in this clause, putting into any port other than the port to which she is bound on the instructions of Charterers, the port charges, pilotope and other expenses at such port shall be borne by Owners. Should the vessel be driven into port or any anchorage by stress of weather here shall continue to be due and payable during any loss of time caused thereby.	164 145 146 167
	VI	In the event of detention of the vessel by authorities at home or abroad in egosequence of legal action available for Owners (unless brought 250mt by the act or neglect of Charterers), whereby the vessel is rendered unavailable for Charterers' senuce, the vessel shall be off-hire until the service can again be resumed.	168 169 170
		If the nation to which the vessel belongs becomes engaged in hostilities, hire and all other charges shall crase during the continuance of such hostilities if Charterers in consequence of such hostilities find it impossible to employ the vessel and in that event Owners shall have the right to employ the vessel on their own account.	. 171 172 173
	. "	All drydock charges shall be at Owners' expense. Time lost by the vessel pesfreeing-for repairs and in and waiting her turn to enter drydock shall, irrespective of duration, count as off-hire."	174 175
		Any loss of time during which the vessel is off-hire as provided in this and the succeeding change shall count as part of the sharer resided. TWELVE_TO_TUPETY_FOUR	176 177
TWELVE		22. Owners undertake that NMNL mistaks after the sease was last crystocked and at the extriny thereafter of entity trie months of continuous use under the charter ties y all put the wested in drydack and clean and pake her leation at their expens as soon therefore as Charterers place the vessel at Owners' disposal, clear of cargo, at a port having statuble accommodation for the purpose.	173 177 180 181
TWENTY	-FOUR	Materials of military the magnificant for the measurement of the fine that the the state of the class of the fire	197

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	Common and to dome or go the de-	
	delivery of the vessel finder this	
	furnish charterers with a similar	CHELET.
400	4 Turkish Charterers with a Similar	r
	description, which description to	o Lu
	based on final particulars the ve	facac
	The vestel shall be off-hire from the time of arrival at the drockycling port but erosaled due of the state of the	1 100
	exercised as aforesaid any time lost thereafter in pastresing for the purpose aforesaid shall be excluded from	127
	the off-fore period and shall-count as on hire. The wested shall remain off-fore until she is again in every way ready to resume Charteries' service at the position at which the off-fore period communical, or at an equivalent position.	182
	The expense of gasfreeing, which shall include the cost of bunkers med, shall be for Owners' account.	190
		1
	If Owners require the vessel to proceed to any special port for periodical docking purposes, no hire shall be	191
	payable for time toward projections to which at and after tweet such correct post social accessor a partition	152
	equivalent to that at which the off-hirs period commenced, nor for the time lost in making tanks free of pas for such docking; all fuel commend and all other expenses incurred in the course thereof shall be paid for by	193
	Owner a Character account to not with the control they may care in purchasing first at the special man of a care	194
	An orygen and sent of at the strength by the vested in and waiting her turn to enter drydael	196
	shall, irrespective of duration, count as off-hire.	197
Boiler	23. Owners undertake that all cleaning of boilers and/or opening up of pistons and/or overhaulian of	
Cleaning, etc.	engines shall be curried out so for as is procueable during parada when the vessel is off-hire and in any court so	198
	as to avoid of madernise delay to the vessel. If and ut so far as it is not practicable to carry out the exist want while	260
	the vestel is the ure of Concentrately with other work, and provided that Owners obtain Constructs' prior approved	201
	a maximum of 72 hours, which shall be cumulative, shall be allowed on hire as and when necessary in any year, or pro rate for part of a year from the commencement of the Charter period for carrying out the said work.	202
	the said work.	203
(Nothing in this clause thall affect any other term of this chance which provides that the vessel shall be off hire.	204
Detailed Lihi	ch description to be based on preliminary particulars of the vecesal L. Comments and the date of delivery under this description and out in form E. dated. Aug. 8, 19/27 attached hereto and signed by them and undertake to use their less cadeavers as in principal the vestel during the principal date.	
Description	out in form 1 dated The ST P DY TO THE STATE OF THE STATE	205
and Ferformance		205 207
	Otherwise without prejudice to the congratity of this clause Owners guarantee that the average spend of the usual	20%
	will be not less than 16 . Tho's with a maximum bunker consumption of the transfer is 60 tone first	209
i luith a	oilper day for all purposes excluding carro heating and tank chaning. I ar moderate went her	210
1 Acted 8	maximum viscosity of 3,500 seconds Redwood Ho.1 at 1000F. 10.280 Kcal	/K#.
based on 50%	over the country the time the vester is on this dimina such period by reletine to the observed distance from	₹.c
laden/50% in	pilot station to pilot station on all sca passages during such period otherwise than as provided in clause 23 hereof.	213
	If designation of the state of	
hallast	If during any year from the commencement of the charter period Owners fail to comply with their obligations under this chause here small to reduced to the extent necessary to indemnify Charterers for such failure. Where	214
	the failure to comply will the soil obtaining afford the time taken by the vessel to perform any of his sentence	215 216
	nice shall be reduced in an aniount proportionate to the loss of time involved. Reduction of hire under the fore-	217
	going provisions shall be without rejudice to any other remedy available to Charterers.	218
	Chims in serve of as furtise of him said and death of the said and a said a said and a said a said a said a said a said a said and a said a s	
	Claims in respect of reduction of hire arising under this clause during the final year or past year of the charter period as specified in cinete 3 hereof and any extension thereof under this cineter shall in the first instance be	219
	setting in a containing with Charterers estimate made two months before the end of the charter period as an	221
	sportied. Tany accessify adjuditions after the end of the charter shall be made by payment by Owners to Charterers	222
	of Challeters to Others as the case may require.	223
	In the event of any conflict between the particulars set out in the aforesaid Form B and any other provision	224
	Gorbeding this clause) of this charter such other provision shall prevail.	225
Tanks, etc.	25. Courters guarantee that the tanks, valves and pipelines are oil-tight at the communication of this	225
	challer, and Country bind themselves to take every possible precaution to meintain the tanks, valves and pipelines in this condition during the charter period.	227
		228
Salvage	24. All salvage and all protecds from develots shall be divided equally between Owners and Charterers	229
	all of Cody Tring the master a collects' and crew's state hire of versal for time lost and cost of first continued and	210
	all other e.g. tises incurred. Subject as aforesaid, and subject to the provisions of clause 21 horself, all lorg of time and all expenses (excluding any damage to or loss of the vessel) movered in saving or attempting to save life and	231
	In this uncessful attempts at fair and shall be porte equally by Owners and Charterers, provided that Charteren, half	232
	not be firede to contribute towards any subage people by Owners arising in any way out of services tentiered	234
	under this clause.	235
Lica	27. Owners shall have a lim upon all cargoes and all freights for any amounts due under-this charter; and	216
	Charterers shall have a hen on the vessel for ell moneys paid in advance and naturarised, and for all claims for	236 237
	damages arising from any breach by Owners of this charter.	233
Exemient	28 Sandard San	
Exceptions	28. Save that chauses 1, 2 and 24 hereof shall be unaffected hereby, the vessel, her master and Owners shall not unless otherwise in this charter expressly provided by report the formary last or depress on a page 200 men.	239
	not, unless otherwise in this charter expressly provided, be responsible for any less or damage arising or remitting from any act, neglect or default of the master, pilots, mariners or other servants of Owners in the navigation or	240 241
	management of the vessel; fire, unless caused by the actual fault or privity of Owners; collision of stranding;	242-
11	cangers and accidents of the sea; explosion, bursting of boilers, breakage of shalls or any latent defect in helf.	243
V	equipment or muchinery. And neither the vessel, her master or Owners, nor Charterers shall, unless otherwise in this charter expressly provided, be responsible for any loss or damage or delay or failure in performance here-	245
	under anything of resulting from an of God, and of the secture under local process, quaranting recognition strates	243
	mercours, rivis commonains and arrest of restraint of princes, rulers or repole the second chall have been seal	247
	to sail with of without publs, to tow or to to the assistance of vessels in distress and to desinte forester manner	243
•	of saving life or property. This chause is not to be construed as in any way effecting the provisions for constition of hire as provided in this charies.	259 250
Injurious -	29. No heids, explusives or carriers injurious to the sessel shall be shipped; nor shall any-royage be under-	. 251
Cargoes	Taken, not but had the control of th	252
	or foreign rulers or povernments, and without prejudice to the Gorgongiany dimage to the times award by the shipment of any such cargo or aforesard shall be at Charterers' risk and expense, and the time taken to repair	253 254
	such danage shall be for Charterers' account.	255
	drive to level on to ter to ter	716

	of the Country of the Play of the	
Disbursaments	31. Should the mister receive nds made for uniformly differentiated of any poot, Charterers or their arents shall night such advances to him, in consucration of which Owners shall pay a commission of 23 per cent, and all such advances shall be distincted from line.	910 241 262
Requisition	32. Should the varied be requisitioned by the during the period of the charter, the vessel shall be deemed to be off-hire during the period of such requisition, and any hire paid by the soil Government in respect of such requisition period shall be for Owners' account. The period during which they wach is on requisition to the soil Government shall count as part of the period provided for in clause 3 of this charter.	263 264 263 274 267
Outbreak of Wer Additional War Expenses	United Kingdo United Kingdo United Kingdo United Kingdo United States of Imerica, Union of Soviet Socialist Republics, People Republic of China, Canada, Japan both Oracs and Charterers shall have the related the charter. upon 60 days prior notice of the Cancellations due to commencement of Hostilities. 34. Any extra expense which may be in united by Owners if the vevel has to trade in areas where there is war (de facto or de june) shall no borne by Charterers, provided that before such expenses are incurred Charterers.	272 272 271
War Insurance	are given an opportunity to signify their approval. 35. War and/or mine rick insurance, if any, shall be for Owners' account, but notwithstending the provisions of clause 5 hereof, war risk insurance on hull and machinery on a mutually agreed value in excess of the rate ruling at the date lancefoldable for Charterer' account. Any increased in Wor bonus to these over and above that in effect on the date nereof that it be for Charterer's account. Any increased in the for Charterer 36. (1) The mater shall be for Charterer's account to sign bills of liding for any blockaded part of for any part which the master or Owners in his or their discretion consider dangerous or impossible to enter or reach.	274 275 276 276
	(2) (A) If any port of loading or of discharge named in this charter or to which the vessel may properly be ordered pursuant to the terms of the bills of lading be blockaded, or	. 251 262
	(B) If owing to any war, hostilities, warlike operations, civil war, civil commotions, revolutions, or the operation of international law (a) entry to any such port of loading or of discharge or the loading or discharge of cargo at any such port is considered by the master or Owners in his or their discretion dangerous or prohibited or (c) it be considered by the master or Owners in his or their discretion dangerous or impossible for the vessel to reach any such port of loading or of discharge. Charterers shall have the right to order the cargo or such part of it as may be affected to be leaded or discharged at any other pert of loading or of discharge within the range of loading or durcharge ports respectively established under the provisions of the charter (provided such other port is not blockaded or that entry thereto or leading or durcharge of cargo therent is not in the master's or Owners' distinction deagrous, or prohibited). If in respect of a port of discharge no orders be received from Charterers within 45 hours after they or their anims have received from Owners a request for the nomination of a substitute port, Owners shall then be at libeacy to discharge the earpy at any port which they or the master may in their or his discretion duride on (whether within the range of discharge ports established under the provisions of the charter or not) and such discharges shall be deemed to be due fulfilment of the contract or contracts of affireightment so far at cargo so discharged is concerned. In the event of the every being loaded or discharged at any asch other port within the respect of Irright and all other conditions whatsever as if the voyage performed were that originally discretion. Hencerer, if the vessel discharges the cargo at a port outside the range of discharge posts established under the provisions of the charter, the charter shall be reached in microbial the receiving the cargo for all such early of discharges and or the voyage criticality designated and all carre exploses involved in reach	283 284 285 285 285 285 285 285 285 285 285 285
	arrival, routes, ports of sall, stemptors, destinations, zones, unters, delivery or in any other with what what ever given by the porturnation filts nation under whose flag the vessel sails or any other powerment or lard authority including any de facts government or lead authority or by any person or body acting or purporting to not an or with the authority of any such government or eathority or by any committee or person having under the terms of the war risks interant, on the vessel the right to give any such directions or recommendations. If by vesses of or in compliance with any such directions or recommendations anything a danc or is not done, such shall not be deemed a designious.	305 307 303 309 310 311 312
	If by reason of or in compliance with any such direction or recommendation the vessel does not proceed to the port or justs of discharge originally designated or to which she may have been ordered previous to the terms of the bills of lading, the vessel may proceed to any port of discharge which the incisor or Omners in his or their discretion may decide on and there discharge the cargo. Such discharge small be deemed to be due fulfilment of the contract or contracts of affrequenciand Owners shall be entitled to freight as if discharge had been effected at the point of posts originally destinated or to which the vessel may have been effected pursuant to the terms of the bills of Inding. All extra expenses involved in reaching and discharging the cargo at any such other port of discharge shall be paid by Chapterers and/or cargo owners and Owners shall have a lien on the eargo for freight and all such expenses.	313 314 315 316 317 318 320 321
	Charterers thall produce that all bills of lading issued under this charter shall contain the foregoing clause to far as applicable to bills of lading.	322 323
Both to Blame Collision Clause	37. If the liability for any collision in which the vessel is involved while performing this charter falls to be determined in accordance with the laws of the United States of America, the following provision shall apply:	324 325 ·
	"If the ship comes into collision with another ship as a result of the negligance of the other ship and any act, resides an default of the master, mariner, pilot or the servants of the carrier in the maxing into or in the images ment of the ship, the corriers of the proofs carried hardwards will independly the carrier availed all loss, or liability to the other or moneauting ship or her other or moneauting ship per her owners in so far as such lars or hability represents loss of, or damage to, or any claim addressever of the owners of the soil goods, past or payable by the other or non-carrying ship or her owners as not of their chair meaning the carriers ship or her owners as not of their chair meaning the carriers ship or her owners as not of their chair meaning the carriers.	326 527 325 329 330 331 332

	Charterer shall produce that all folls of Ending is used under this charter shall a account a procession in the foregoing terms, to be applicable where the liability for any collision in which the vessel is involved falls to be determined in nevertheless with the local of the United States of America.	33 33 33
New Jason Clause	38. General everage shall be psyable according to the York/Antecep Pailes, 1950, and shall be adjusted in London but should adjustment be made in accordance with the law and practice of the United States of America, the following provision shall apply:	331
	"In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whotsoever, whether due to negligence or not, for which, or for the consequence of which, the corrier is not responsible, by statute, contract or otherwise, the goods, shippers, consigners or owners of the poods shall contribute with the carrier in guiteral average to the payment of any sacrifices, however expenses of a general over general average mature that may be made or incurred and shall pay salvage and special charges incurred in respect of the poods.	34: 34: 34: 34: 34: 34:
	If a salving ship is owned or operated by the carrier, salving shall be prid for as fully as if the said calving ship or ships belonged to strangers. Such deposit as the carrier or his agents may deem sufficient to cover the estimated contribution of the peops and operating and special charges these middless required, be made by the goods, shippers, consigned or owners of the goods to the currier before delivery."	3-14 3-45 3-50 3-51
	Charterers shall procure that all bills of lading insued under this charter shall electric a provision in the foregoing terms, to be applicable where adjustment of general average is made in accordance with the laws and practice of the United States of Apperica.	351 351 354
Paramount Clause	39. Charterers shall procure that all bills of lading issued under this charter shall contain the following Paramount Clause:-	355
	"This bill of lading shall	357
	(1) in relation to the carriage of any goods from any part in Great Britain or Northern Ireland to any other port whather in or outside Great Britain or Northern Ireland have effect subject to the provisions of the Carriage of Goods by Say Act, 1924, and to the Bules contained in the Schedule thereto as applied by that Act and nothing herein contained shall be deemed a surrender by the Carrier of any of his rights or immunities or an increase of any of his responsibilities or liabilities under the said Act;	359 369 361 362
	(2) In relation to the corriers of any goods from any port of shipment in territory in which legislation smaller in effect to the Continge of Goods by See Act, 1924, of the Umied Kingdom is in force, love effect subject to such legislation and to the Rules contained in the beheale thereto as applied by such legislation and noth up heren commissed shall be deemed to be a surrender by the Carrier of any of his rights or immunities under the said legislation or an increase of any of his responsibilities or liabilities under the said legislation; and	363 363 365 366 367 368
	(3) in any other case have effect as if the contract of carriage herein command were a contract of carriage to which the provisions of the Carriage of Goods by Sen Act, 1924, of the United Kingdom applied and the Carrier shall be entitled to the brackt of the privileges, rights and immunities conferred by the said-Act and the Rules comminded in the Schedule thereto as if the same were herein specifically set out.	359 370 371 372
	Mahymerm of this bill of lading be repugnent to the provisions of the said Act or to the said legislation to any calean, such term thail he woul to that extent but no further."	373
Law and Lurgation	49. (a) Tally charter shall be construed and the relations between the parties determined in secondance with the law of lengtund.	375
	(b) Any dispute arising under this charter shall be decided by the English Courts to whose juriclinities the parties agree whatever their destruike may ke;	377 378
7.1	Provided that either party may elect to have the dispute referred to the arbitration of a single arbitrator in Lordon in accordance with the provisions of the Arbitration Act, 1950, or any statistory medification or reconscinuous thereof for the time being in force. Such election shall be made by written induce by one party to the other not later than 21 days after receipt of a nature given by one party to the other of a dispute laying arises under this charter.	379 350 381 362 383
	41. Charterers agree to reimburse Owners for TCVALOF (or any successor or substitute organization) insurance premium and costor	
	42. Others have the option to perform periodical drydocking in Japan with 90 days advance notice and Charterers to agree to send the vessel to Persiam Gulf. In this case no hire shall be payable for the following period as offhire: From the time of passing Quoin Island for loading cargo of Charters account to Japan, to the time of passing Quoin Island for loading cargo of Charterers account from Japan after drydocking.	
	O STEATSHIP CO., LTD. NECOUNDLAND DEFINING CONTANY LIMITED	
Isazu Ni Attorney	shibana Keneging Director Roy E. Jurnary, Executive Vice Presiden	Ł

FORM II (July, 1969)

PARTICULARS OF VESSEL New York, August 8, 1972

This form is to be completed and returned to Shell International Marine Limited as soon as possible after charter negotiations are commenced. Then completed and agreed the form vilicontrally be incorporated into the Charter Parry and the particulars contained therein will be taken as representations by Owners and binding upon them.

Particulars to be Completed L CLASSIFICATION Nippon Kaiji Kyokai or Equivalent 2. DEADWEIGHT (Classified summer freeboard) about 233,000 3. DIMENSIONS (a) Length everall about 321.00 meters about 30%.00 meters (b) Lagth between perpendiculars (c) Beam extreme about 52.40 meters (4) Draft fully laden in salt water on classified summer freeboard ... about 19.81 meters (e) Underwater length measured between perpendiculars drawn at the after side of the rudder place and at the foreside of the foremost extremity of any part of the hull which is below the bolismeal line drawn through the top of the rodder plate (a) Type of Propelling Machinery Mitsubishi Turbine ____ 44,000 BHP. 8 90 RPM. (6) Maximum tated B.H.P. and R.P.M. (c) Proposed service B.H.P. and R.P.M. 34,000 B.H.P. @ 90 R.P.M. 5. BOILER AND STEAM CAPACITY (b) Total beating surface 2 sets x 1,996 m² (c) Total service steam espacity 140,000 kg/h THE WALL THE (d) Guaranteed minimum temperature at which cargo bearing can be maintained (in accordance °c (e) Estimated steam required for maintaining heating as in (d) above NA1 ... (f) Estimated steam required for essential suziliaries and ship's services ... about 32,000 Kg/h maximaxx (g) Nett steam available for driving cargo pumps (i.e. total steam available less that required for maintaining beat of cargo, driving auxiliaries and ship's services) ... about 108,000 Kg/h 6. SPEED AND CONSUMPTION (a) Speed on fully loaded trials at service B.H.P. and R.P.M. (as for 4 (c) shove) ... 16.10 kts. 16.50 kis.

and and

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Exhibit 1

HORM II (Continued)

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			Pasticulars to be Completed
10.	AMIDS	HIPS LOADING AND DISCHARGING MANIFOLDS	
	(a)	That is the distance of centre of manifolds from amidships (from mid-length position)?	2.5 meters
	(b)	Distance of manifold flanges from ship's rail	15 feet .
	(c)	Height of centres of flanges above deck or working platform	3 feet
	(4)	Distance between centres of manifold flanges	2.5 meters
	(e)	Is vessel equipped with sufficient reducing pieces to enable loading and discharging connections on port or starboard sides to be connected to 12°, 10° or 8° hoses?	No
	(1)	Number of loading/discharging lines can connect on each side	4
•		Number and position of bunkering connections relative to loading/discharging manifolds Amidship Fore P. & S. Amidship Aft, P. & S. Bridge	
	(F)	Number and position of watering connections relative to loading/discharging to be in	itted at stern
	(i)	Do loading and discharging manifold arrangements comply with all other sequirements of hem B in the Digest?*	No
11.	CARG	O AND BUNKERING LINES	
	Does	urangement of cargo lines, valves, gas vents etc. permit:	
	(a)	Stern as well as normal amidships loading/discharging for G) Cargo	No
		(ii) Bunkers	No
	. (р)	State number of grades can load/discharge simultaneously through amidship connection with two valve separation without risk of contamination	2 Grades
12.	BALL	ASTING SYSTEM	
	(a)	Is vessel equipped with separate ballasting system?	Yes
	(P)	State percentage of ship's summer deadweight separate system can contain	about 16%
	(c)	Time required load and discharge quantity of ballast as in (b)	
		(i) Load) 12	His. 2.67 hr. + 5 His.
12	CARC	O Ptimes	
43.		N	
			<u> </u>
	(6)		Mitsubishi Kobe
	(c)	Type Steam turbine driven horizo	ntal centrifugal
		(1) If reciprocating:	
		State distance from succion valve plates to base line of vented	
		(2) If Centrifugal:	•
		State distance from centre of impelle; to base line of vessel	3.40 M
	(4)		n Side 700 mm/s

FORM Is (Continued)

			Particulars to be Completed
10.	AMIDS	HLPS LOADING AND DISCHARGING MANIFOLDS	
	(2)	That is the distance of centre of monifolds from amidships (from mid-length position)?	2.5 meters
	(P)	Distance of manifold flanges from ship's sail	15 feet
	(c)	Height of centres of flanges above deck or working platform	3 feet
•	(d)	Distance between centres of manifold flanges	2.5 meters
	(e)	Is vessel equipped with sufficient reducing pieces to enable loading and discharging connections on port or starboard sides to be connected to 12°, 10° or 8° hoses?	No
	ທ	Number of loading/discharging lines can connect on each side	4
•		Number and position of bunkering connections relative to loading/discharging manifolds Amidship Fore P. & S. Amidship Aft, P. & S. Bridge	
	(F)	Number and position of watering connections relative to loading/discharging to be a	fitted at sterm
	(1)	Do loading and discharging manifold arrangements comply with all other requirements of Item 13 in the Digest?"	No
11.	CARG	O AND BUNKERING LINES	
	Does	arrangement of cargo lines, valves, gas vents etc. permit:	
		Stem as well as normal amidahips loading/discharging for (i) Cargo	No
		(ii) Buakers	Na
	. (р)	State number of grades can load/discharge simultaneously through amidship connection with two valve separation without risk of contamination	2 Grades
12,	BALL	ASTING SYSTEM	
	(a)	Is vessel equipped with separate ballasting system?	Yes
	(ъ)	State percentage of ship's summer deadweight separate system can contain	about 16%
	(c)	Time required load and discharge quantity of ballast as in (b)	
•		G) Load) 1:	2.67 hr. + 5
		(ii) Discharge	Hrs.
13	CARG	O PUMPS	
Ī		Number	3
	(P)	Make	Mitsubishi Kobe
	(c)	Type Steam turbine_driven_horize	ontal centrifugal
		(1) If reciprocating:	
		State distance from suction valve plates to base line of vessel	
•		(2) If Connifugal:	
		State distance from centre of impeller to base line of vessel	3.40 M
	(4)	314 24 111 111 111 200 200 200 200 200 200	on Side 700 mms

FORM II (Co	ontinued)
	Particulars to be Completed
13. CARGO	PUMPS (Continued)
•	
	Designed rated capacity of each pump in cubic metres water per hour at 85 metres head at ship's manifold
	Estimated steam consumption of each pump when discharging to capacity as per (e) above about _35,250 Kg/m HXX SANK
14. STRIPP	ING PUMPS
(a)·	Number and size 2 Mitsubishi Jet Stripping System
	Capacity of each pump in cubic metres water per hour at 85 metres head at
	ship's manifold about 750c_m.p.h.
15. HEATIN	G COILS .
(a)	Type of coils and material of which manufactured
(P)	Ratio of tank volume/heating surfaces
	(1) Centre tanks
	(2) Side tanks Not applicable
(c)	Height of coils from tank bottoms
16. SLOP T	ANKS AND TANK CLEANING
(a)	Is vessel firted with a slop tank and able to fulfil Item 10 (a) in the Digest? Yes
(P)	Type of tank cleaning equipment fitted
(c)	Type of gas extraction equipment fixed Portable Turbine Hy-Otac other Tanks
17. NOORIN	G AND LIFTING EQUIPMENT Portable Machine
(a)	Does vessel conform with Item 13 in the Digest?* No
(ъ)	Safe working load of detrick or davit on poop deck 1 x SWL 1 ton 2 x SWL 1 ton 2xxxx
(c) :	Safe working load of derricks in way of manifold 2 x 15 KI XXXXX
(d) :	Safa working load of derrick for bandling forebold cargo
(e)	Type of winches (electric, steam erc.)
IS. GENERA	u.
(a) A	Are bull stress calculators fitted? No
(ь) (Cubic capacity of forehold Nil
(c) 1	Is forehold registered for low flash cargoes?
(d) 1	Does Radio equipment conform to Item 14 (a) (i) in the Digester
(e) ·	Type of Radio Telephone fined SSBMF, VHF- telephone
(t) :	Type of Automatic Pilor litted Electric 2 way Steering Type
, · · ·	2 sets of Mannetic Log Type with frequency of 200 l

FORM B (Continued)

Particulars to be Completed

18. GENERAL (Continued) only wiring complete (i) Is Decca Navigator fitted? (j) Is submerged log fitted? (k) Are any auxiliaries run on gasoil? If so give details of consumption Electric Hydraulic (1) Type of power used for steering machinery Electric (m) Type of galley and fuel required (o) If vessel's dimensions compatible with Panama Canal transit will she comply with Panama Canal Regulations for the carriage of: (1) Grade "A" cargoes (2) Grade "B" cargoes (3) Grade "C" cargoes (4) Grade "D" cargoes

- N.B. When submitting this Form the following plans should be attached :-
 - (1) General Arrangement Plan
 - (2) Pumping Arrangement Plan
 - (3) Plan of Cargo Tank Ventilating System
 - (4) Characteristic Curves of Pumps if Centrifugal Pumps installed.
 - Digest refers to Shell International Marine Limited's Digest of Charterers'
 Requirements dated September 1967 and any subsequent amendments thereto.

and

37

Exhibit 1

4th October, 1973.

CERTIFICATE OF DELIVERY

THIS IS TO CERTIFY THAT the Japanese resistered tanker "KYOKKO MARU" was delivered in all respect ready to Time-Charterers. Newfoundland Refining Company Ltd. from Owners, The Sanko Steamship Co., Ltd. at 20:19 hours GMT on the 15th September, 1973. in accordance with the terms, conditions and exceptions of the relevant Time Charter Party dated August 8, 1972.

The followings were remained on the board at time of delivery:

Fuel Oil

: 3,455 Long Tons

Diesel Oil : 8 Long Tons

Drinking Water : 110 Long Tons

Boiler Water : 192 Long Tons

Newfoundland Refining Co., Ltd.

Charterers,

The Sanko Steamship, Co.,

Owners,

EXHIBIT 2--CHARTER PARTY (ELEFTHEROUPOLIS) ANNEXED TO AFFIDAVIT OF ROY M. FURMARK

Code word for this Charter Party
"SHELLTIME 3"

Essued June 1963

Eleftheroupolis

Time Charter Party

KONDON, 19 NEW YORK, August 8, 1972

of about 271,000 Dir It is this day agreed between The Sanko Steamship Company Limited at summer draft about (hereinafter referred to as "Owners"), being Owners of the Tokyo, Japan 21.30 meter goodnewbuilding stearwak vessel called Sasebo Heavy Industries Co., Ltd. 2
Hull No. 230 to be named with Japanese, Liberian, Panamanian or Singapore fla
(hereinafter referred to as "the vessel") described as per clause 24 hereof and Newfoundland Refining Company Ltd. St. John's, Newfoundland (bereinalter referred to as "Charterers"). 1. Owners guarantee that at the date of delivery of the vessel under this charter Description of Vessel (a) she shall be classed Nippon Kaiji Kyokai or equivalent. (b) she shall be in every way fitted for burning marine diesel oil or fuel oil with a maximum viscosity of 3500 seconds Redwood 1 at 100 degrees F., in main motors and any commercial grade of fuel [10,280 Kcal/K.G.(H.C.V.)] oil under boilers; and (c) xpertallypertationallycomy relative and an entire and are relative to the state of the state 2. Owners shall, before and at the date of delivery of the vessel under this charter, exercise due diligence to make the vessel Condition of Vessel 14 (a) in every way fit to carry crude petroleum and/or its products; and But in case Charterer declare not perform (b) tight, staunch, strong, in good order and condition, in every way fit for the service, with her machinery, boders and hull in such a state as to obtain the most economic working and with a full and efficient complement of master, officers and crew for a vessel of her tonnage. contract of Affreightment under Charter Party of Owners undertake that throughout the period of service under this charter they will, whenever the passage of time, wear and tear or any event (whether coming within clause 28 hereof or not) requires steps to be taken to maintain the vessel as stipulated in clause 1 hereof and in this clause or to restore the vessel to such condition, exercise due diligence to maintain or restore the vessel as aforesaid, and that they will comply with the regulations in force so as to enable the vessel to pass through the Suez and Panama Canals by day and right without delay. New York August 8,1972 the total period of this Time Charter to be 10(Ten) years 14 days more or less at Charterers option renol and 3. Owners agree to let and Charterers agree to hire the vessel for a period of months) years, 14(Fourteen) days more or loss at Chartere's ontion -Trading Limits of carrying all lawful merchandise including in particular crude oil and/or its dirty excluding communist petroleum products. and communist controlled countries 27 28 29 in any part of the world, as Charterers shall direct, subject to the limits of the current British Institute Warranties and any subsequent amendments thereof, it being understood that Charterers shall not send the vessel to ice-bound waters without Owners' consent but such consent shall not be unreasonably withheld. Cuba and Israel ports, except with Owners' 30 31 32 Charterers shall exercise due diligence to ensure that the vessel is only employed between and at safe ports, prior consent which Charterers shall exercise due diagence to ensure that the vessel is only employed between and at safe ports, places, bertins, docks, anchorages and submanne lines where she can always his safely affoat, but notwithstanding anything contained in this or any other clause of this charter. Charterers shall not be deemed to warrant the safety of any port, place, berth, dock, anchorage or submanne line and shall be under no liability in respect thereof except for loss or damage caused by their failure to exercise due diligence as aforesaid. Subject as above, the vessel shall be loaded and discharged in any dock or at any wharf or place or anchorage or submanne line or alongside lighters or other vessels as Charterers may direct. not to be unreasonably withheld. The vessel shall be delivered by Owners at a port in Japan, or at a point not 57 a port in Japan or at further in distance from Persian Gulf than Japan a port or point not at Cwners' option and redclivered to Owners au Owners shall notify Charterers of the further in distance estimated time of delivery in written from the Persian Gulf letter, telex or cable on 30(Thirty) than the port of delivery Charterer' option. days at least prior to delivery and

2 4. The vessel shall not be delivered to Charterers before Lardays April 1, 1974 40 CAROTTIE and Charterers shall have the option of cancelling this charter if the westel is not seady. on or before May 31, 1974 42 sers undertake to provide and to pay for all provisions, wages, and shipping and discharging Owners to 43 fees and all other expenses of the master, officers and crew; also, except as provided in clauses 34 and 35 hereof, to pay for all insurance on the vessel, for all deck, cabin and engine-room stores, and water, except water for the boilers which (unless the vessel is oil-hire) is to be supplied and paid for by Characters; and for all fungation expenses and detailsation exemption certificates. Owners' obligations under this clause extend to cover all liability for Provide 44 46 47 48 49 50 51 52 53 and destriction exemption extinuates. Owners congrations under this clause extend to cover an inability for customs or import duties arising at any time during the performance of this charter in relation to the personal effects of the master, officers and crew, and in relation to the stores, provisions and other matters aforesaid which effects of the master, officers and crew and in earthin to the stores, provisions and other matters aforesaid which Owners are to provide and/or pay for and Owners shall refund to Charterers any sums they or their agents may have paid or been compelled to pay in respect of such liability. Any amounts allowable in general average for wages and provisions and stores shall be credited to Charterers insofar as such amounts are in respect of a period a the vessel is on hire 6. Charterers shall provide and pay for all fuel (except galley fuel), towage and pilotage and shall pay agency fees, port charges, commissions, expenses of loading and unloading cargoes, canal dues and all charges other than those payable by Owners in accordance with the preceding clause hereof, provided that attacharges for the said items shall be paid by Owners when incurred for Owners' purposes, whether the vessel is on hire or off-hire. The foregoing provision as to fuel shall not apply to any fuel used in connection with a general average sacrace or expenditure or with the preparation for and the drydocking or repair of the vessel which shall in any exact be noted for howers. Chanterers to 54 55 56 57 58 59 60 event be paid for by Owners. Rate of Hire Subject as herein provided Charterers shall pay for the use and hire of the vessel at the rate of 7. Subject as herein provided Charterers shall pay for the use and hire of the vessel at the rate of U.S.52.40(Two United States Dollars and Forty Cents)

per ton of commence on the vessel's total deadwright on Classified summer recoord, as assigned at the date hereof, per calendar mooth, commencing at and from the time and date of her delivery as aforesaid, and pro rate for any part of a mooth, and continuing until the time and date of her redelivery to Owners.

United States Currency in New York to Owners account?

8. Payment of the said here shall be made in the monthly in advance less any amounts disbursed on Owners' behalf and less any hire paid or expenses incurred by Charterers as may reasonably be estimated by them to relate to of-here pendos, and less any amounts due or estimated to become due to Charterers under the terms of clause 24 hereof, any adjustment to be made at the due date for the next monthly payment after the facts have been ascertained. In default of such payment Owners may withdraw the vessel from the service of Charterers, without prejudice to any claim Owners may otherwise have on Charterers under this charter. 61 62 65 Payment of 70 71 72 9. The whole reach, burthen and decks of the vessel and its passenger accommodation (which shall be deemed to include Owners' suite), if any, shall be at Charterers' disposal, reserving only proper and sufficient space for the vessel's master, officers, crew, tackle, apparel, furniture, provisions and stores, provided that the weight of stores on board shall not, unless specially agreed, exceed \$\frac{100}{100}\$ tons at any one time during the period of the charter. The vessel shall load and discharge cargo as rapidly as possible by night as well as by day when required by Charterers or their agents to do so. Charterers may consistently with the safety of the vessel semove any stanchions and ladders, which shall, if required by replaced by them before redelivery at their own expense and to the satisfaction of Owners' surveyor. [U.S.Dollars 700 lumpsum monthly] Space 73 74 75 76 77 78 79 80 Available to Charterers 10. The master shall prosecute his voyages with the utmost despatch and shall render all reasonable assistance with the vessel's officers and crew and equipment, overtune pay of the master, officers and crew in accordance with ship's articles being at Charterers' expense when incurred as a result of complying with the Duties of 83 84 request of Charterers or their agents. 11. The master shall be furnished by Charterers from time to time with all requisite instructions and sailing directions, and shall keep a full and correct log of the voyage or voyages, which shall be open to inspection by Charterers or their agents as required. The master shall furnish Charterers or their agents when required to do so with a true copy of such log and with properly completed loading and discharging port shreets and voyage reports for each voyage and other returns as Charterers may require. Charterers shall be entitled to take copies at Owners' expense of any of such documents as are not provided by the master. Instructions and Logs 86 87 88 89 90 12. If Charterers shall complain of the conduct of the master or any of the officers, Owners and Charterers jointly shall inunctiately investigate the complaint, and if the complaint prove to be well founded, Owners shall, Conduct of Vessel's 91 92 93 Personnel without delay, make a change in the appointments. 13. The master (although appointed by Owners) shall be under the orders and direction of Charterers as regards employment of the vessel, agency or other arrangements. Bulls of lading are to be signed at any rate of freight Charterers or their agents may direct, without prejudice to this charter, the master attending as necessary at the offices of Charterers or their agents is do so. Charterers hereby indemnify Owners against all consequences or liabilities that may arise from the master. Charterers or their agents signal buils of lading or other documents, or from the master other—ise complying with Charterers' or their agents' orders, as well as from any irregulanties in papers supplied by Charterers or their agents. The said indemnity shall not extend to any consequences or liabilities or apply to any loss or damage arising from orders to proceed to, enter, remain in craft, depart from or shaft berth in or at any port, place, berth, dock, anchorage or submarine line, other than consequences of liabilities or loss or damage resulting from or mixed by failure to exercise due diligence as required by clause 3 hereof. 94 95 Lading 96 97 98 99 100 101 102 103 Stevedores when required shall be employed and paid by Charterers, but this shall not relieve Owners from responsibility at all times for proper stowage, which must be controlled by the master, who shall keep a strict account of all cargo loaded and denaired. Owners hereby indemnify Charterers, their servants and against all losses, claims, responsibilities and liabilities arising m any way whatsoever from the employment of pilots, tugboats or stevedores who although employed by Charterers shall be deemed to be the servants and in the service of Owners and under their instructions. Stowage 105 106 107 108 14. Charterers shall accept and pay for all bunker oil and boiler water on board at the time of delivery, and Owners shall, on the expiry of this charter, pay for all bunker oil and boiler water then remaining on board at current market prices at the respective ports. Owners shall give Charterers the use and benefit of any fuel contracts they may have in force, at home and/or abroad, if so required by Charterers, provided suppliers. Cunkers at 111 Delivery and Redelivery

but such indemnity shall not exceed the amount to which Owners would have been entitled to limit their liability if they had themselves employed such pilots, togboats and stevedores.

15. Charterers may send passengers in the vessel's available accommodation upon any voyage made under this charter, Owners finding provisions and all requisites as supplied to others, except liquons, Charterers paying at the rate of USS4.00 per day for each passenger while on board the vessel. 16. Charterers may sub-let the vessel, but shall always remain responsible to Owners for the due fulfilment 120 of this charter. 17. Owners shall be liable for any delay in quarantine arising from the master, officers or craw having communication with the shore at any infected area without the written consent or instructions of Charterers or their agents, also for any loss of time through detention by customs or other authorities caused by smuggling or other infraction of local law on the part of the master, officers or crew. 121 122 123 124 Area and of Local Law 18. Should the vessel be on her voyage towards the port of redelivery at the time a payment of hire is due, payment of hire shall be made for such length of time as Owners and Chamerers may agree upon as being the estimated time necessary to complete the voyage, less any disbursements made or expected to be incurred by Chamerers for Owners' account and less the estimated value of bunker fuel remaining at the termination of the voyage, and when the vessel is redelivered any overpayment shall be refunded by Owners or underpayment paid by Chamerers. Notwithstanding the provisions of clause 3 hereof, should the vessel be upon a voyage at the expiry of the period of this chamer, Chamerers shall have the use of the vessel at the same rate and conditions for such extended time as may be necessary for the completion of the round voyage on which she is engaged and her return to a port of redelivery as provided by this charter. 125 126 127 Final Voyage 123 129 130 131 132 133 Should the vessel be lost, hire shall cease at noon on the day of her loss and, should the vessel be 19. Should the wessel be lost, here shall cease at noon on the day of her loss and, should the vessel be missing, hirr shall cease at noon on the day on which she was last heard of and any hire paid in advance and not last neared shall be returned to Charterers.

11 a port which to be mutually agreed between last nearest nearest shall be reduced by the amount by which Owners can reasonably reduce the expenditure otherwise falling last nearest Laying-up In the swint of loss of time (whether arising from interruption in the performance of the vessel's service 140 Off-Hire or from reduction in the speed of the performance thereof or in any other manner) continuing for more than 24 hours, due to deficiency of personnel or stores, repairs, breakdown (whether partial or otherwise) of machinery or boilers, collision or stranding or accident or damage to the vessel or any other cause preventing the efficient working of the vessel; or 145 (b) whether or not continuing for 24 hours, (i) due to strikes, refusal to sail, breach of orders or neglect of duty on the part of the master, officers or crew; or (ii) for the purpose of obtaining medical advice or treatment for or landing any sick or injured person (other than a passenger carried under clause 15 hereof) or for the purpose of landing the body of any person (other than such a passenger); 148 149 150 hire shall crase to be due or payable from the commencement of such loss of time until the vessel is again ready and in an efficient state to resume her service from a position not less favourable to Charterers than that at which such loss of time commenced. 153 Any such loss of time which arises wholly or partly from a reduction in the vessel's guaranteed average speed provided in clause 24 hereof shall be taken to be the difference between the time the vessel would require to perform the relevant service at the said speed and the time actually taken to perform the same and such loss of time shall be added to any loss of time arising from interruption in the performance of the vessel's service in order to arrive at the said period of 24 hours. 154 155 155 157 Further and without prejudice to the foregoing, in the event of the vessel deviating (which expression includes putting back, or putting into any port other than that to which she is bound under the instructions of Charterers) for any cause or for any purpose previously mentioned in this clause, no hire shall in any case be payable as from the commencement of such deviation until the time when the vessel is again ready and in an efficient state to resume her service from a position not less favourable to Charterers than that at which the deviation commenced. 16: In the event of the vessel, for any cause or for any purpose previously mentioned in this clause, putting into any port other than the port to which she is bound on the instructions of Charterers, the port charges, plotage and other expenses at such port shall be borne by Owners. Should the vessel be driven into port or any anchorage by stress of weather hire shall continue to be due and payable during any loss of time caused thereby. 166 In the event of detention of the vessel by authorities at home or abroad in consequence of legal action against Owners funless brought about by the act or neglect of Charterers), whereby the vessel is rendered unavailable for Charterers' service, the vessel shall be off-hire until the service can again be resumed. 163 170 If the nation to which the vessel belongs becomes engaged in hostilities, hire and all other charges shall cease during the continuance of such hostilities if Charterers in consequence of such hostilities find it impossible to employ the vessel and in that event Owners shall have the right to employ the vessel on their own account. 173 All drydock charges shall be at Owners' expense. Time lost by the vessel gasfreeing for repairs and in and waiting her turn to enter drydock shall, prespective of duration, count as off-hire. 174 Any loss of time during which the vessel is off-here as provided in this and the succeeding clause shall count as part of the charter period.

[TF]. IV IV: SIX-1018 months 176 22. Owners undertake that the beautiful the vessel was last drydocked and at the expiry the caffer of each makes months of continuous we under the charter they will put the vessel in drydock and clean and plant ber buttom at they expense as swon thereafter as Charterers place the vessel at Owners' disposal, clear of cargo, at a port having suitable accommodation for the purpose. 178 Periodical Drydocking 180 -VE 10 TY-FOUR Norwithstanding the provision in the preceding clouse as to time less by the vessel practicing, time less in making tanks free of pas, as distinct from tank cleaning, for the purpose solely or primarily of periodical bottom cleaning, and gaining shall be for the account of Courterers provided Owners shall have exercised due distinct to make the tanks free of gas before the account of the vessel at the dryducking port or as soon as practicable thereafter. 123

	Wall a remain to be say at the date of	1.4
	delivery of the feet under this char	ter
	furnish charterers with a similar	
	delivery of the delivery this char furnish charterers with a similar description, which description to be based on final particulars of the vess	
	loased on linar particulars of the vess	el.
	The vessel shall be off-hire from the time of arrival at the drydocking port but provided due diligence is exercised as aforesard any time lost thereafter in gasfreeing for the purpose aforesard shall be excluded from the off-hire period and shall count as on hire. The vessel shall remain off-hire until she is again in every way ready to resume Charterers' service at the insistion at which the off-hire period commenced, or at an equivalent position. The expense of gasfreeing, which shall include the cost of bunkers used, shall be for Owners' account.	185 187 188 189 190
	If Owners require the vessel to proceed to any special port for periodical docking purposes, no hire shall be payable for time lost in proceeding to, whilst at and after leaving such special port until reaching a position equivalent to that at which the oil-hire period commenced, nor for the time lost in making tanks free of gas for such docking; all full consumed and all other expenses incurred in the course thereof shall be paid for by Owners, Charterers crediting Owners with any benefit they may gain in purchasing fuel at the special port aforesaid. All drydocking shall be at Owners' expense. Time special by the vessel in and waiting her turn to enter drydock shall, irrespective of duration, count as off-hire.	191 192 193 194 195 196 197 198 199 199
Boiler Cleaning, etc.	23. Owners undertake that all cleaning of boilers and/or opening up of pistons and/or overhauling of engines shall be carned out so far as is practicable during periods when the vessel is off-hire, and in any event so as to avoid or minimise delay to the vessel. If and in so far as it is not practicable to carry out the said work while the vessel is off-hire or concurrently with other work, and provided that Owners obtain Charterns' prior approval, a maximum of 72 hours, which shall be cumulative, shall be allowed on hire as and when necessary in any year, or pro-rata for rate of a ver from the commencement of the Charter period for carrying our the said work. In description to be based on preliminary particulars of the vessel. Nothing in this clause shall affect any other term of this charter which provides that the vessel shall be of-hire.	198 rate was a tile rate rate rate rate rate rate rate rat
Detailed Description and Performance	24. Owners warrant that at the date of delivery under this charter the vessel shall be of the description set out in Form B dated Aug. 8, 1972 attached bereto and signed by them and undertake to use their best endeavours so to maintain the vessel during the period of her service bereunder. Further but otherwise without prejudice to the generality of this clause Owners guarantee that the average speed of the wasel will be not less than 6. I Gnots, with a maximum bunker consumption of the vessel of the	205 206 207 208 209 210
/50% in	oil per day for all purposes excluding careo heating and tank cleaning. The a maximum viscosity of 1,700 seconds Redwood to 1 at 100 F 10,280	Kcal/ko
ist	The aforesaid average speed shall be calculated in each yearly or other less period, as defined figurature, over the whole of the time the vessel is on hire during such period by reference to the observed distance from pilot station to pilot station on all sea passages during such period otherwise than as provided in clause 23 bereof.	212 (H.CV)
	If during any year from the commencement of the charter period Owners fail to comply with their obligations under this clause here shall be reduced to the extent necessary to indemnify Charterers for such failure. Where the failure to comply with the said obligations affects the time taken by the weasel to perform any of her services hire shall be reduced in an amount proportionate to the loss of time involved. Reduction of hire under the foregoing provisions shall be without prejudice to any other remedy available to Charterers.	214 215 216 217 218
	Claims in respect of reduction of hire arising under this clause during the final year or part year of the charter period as specified in clause 3 hereof and any extension thereof under this charter shall in the first instance be settled in accordance with Charterers' estimate made two months before the end of the charter period as so specified. Any necessary adjustment after the end of the charter shall be made by payment by Owners to Charterers or Charterers to Owners as the case may require. [preliminary]	219 1220 221 222 223
	In the event of any conflict between the particulars set out in the aforesaid Form B and any other provision (including this clause) of this charter such other provision shall prevail.	224 225
Tanks, etc.	25. Owners guarantee that the tanks, valves and pipelines are oil-tight at the commencement of this charter, and Owners bind themselves to take every possible precaution to maintain the tanks, valves and pipelines in this condition during the charter period.	226 227 228
Salvage	26. All salvage and all proceeds from derelicts shall be divided equally between Owners and Charterers after deducting the master's, orders' and crew's share, here of vessel for time lost and cost of fuel consumed and all other expenses incurred. Subject as aforesaid, and subject to the provisions of clause 21 hereof, all loss of time and all expenses (excluding any damage to or loss of the vessel) meutred in saving or attempting to save life and in unsuccessful attempts at salvage shall be borne equally by Owners and Charterers: provided that Charterers shall not be lable to contribute towards any salvage payable by Owners a using in any way out of segment rendered under this clause.	229 230 231 232 233 234 235
Lien	27. Owners shall have a lieu upon all cargoes and all freights for any amounts due under this charter; and Charterers shall have a lieu on the vessel for all moneys paid in advance and not earned, and for all claims for damages arising from any breach by Owners of this charter.	236 237 238
Exceptions	28. Save that clauses 1, 2 and 24 hereof shall be unaffected hereby, the versel, her master and Owners shall not, unless otherwise in this charter expressly provided, he responsible for any loss or damage arising or resulting from any act, triplect or default of the master, pilots, manners or other servants of Owners in the navigation or management of the vessel, fire, unlets caused by the actual fault or privity of Owners; collision or stranding; dangers and accidents of the sea; explosion, bursting of boilers, breakage of shalts or any latent defect in bull, equipment or machinery. And neither the vessel, her master or Owners, nor Charterers shall, unless otherwise in this charter expressly provided, be responsible for any loss or damage or delay or failure in performance hereunder arising or resulting from act of God, act of war, science under legal process, quarantine restrictions, strikes, lockouts, riots, civil commutions and arrest or restraint of princes, miers or people. The vessel shall have liberty to sail with or without pilots, to tow or go to the assistance of vessels in distress and to deviate for the purpose of saving life or property. This clause is not to be construed as in any way effecting the provisions for cessation of hire as provided in this charter.	239 240 241 242 243 244 245 246 247 248 249 249
Injurious Cargoes	29. No acids, explosives or cargoes injurious to the vessel shall be shipped, nor shall any voyage be undertaken, nor goods or careous be loaded, that would involve risk of seizure, capture, or penalty imposed by British or foreign tulers or governments, and without puriodice to the foregoing any damage to the tanks caused by the shipment of any sum cargo as aforesaid shall be at Charterers' risk and expense, and the time taken to repair such damage shall be for Charterers' account.	251 252 253 254 - 255
Grade of Bunkers	30. Charterers have the option of supplying for use in the main motors marine direct oil or fuel oil with a maximum viscosity of 3500 seconds Redwood I at 100 degreet F, and for use under the busiers any commercial grade of fuel oil. If Owners require the vessel to be supplied with more expensive bunkers they shall be hable for the extra cost thereaf.	256 257 258 259

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Disbursements	31. Should the master require advances for ordinary disburiements at any port, Charterers or their agents shall make such advances to him, in consideration of which Owners shall pay a commission of 2½ per cent, and all such advances shall be deducted from hire.	260 261 252
Requisition	32. Should the vessel be requisitioned by the during the period of this charter, the vessel shall be deemed to be off-hire during the period of such requisition, and any bire paid by the said Government in respect of such requisition period shall be for Owners' account. The period during which the vessel is on requisition to the said Government shall count as part of the period provided for in clause 3 of this gnarter.	263 264 265 266 267
Outbreak of War	33. If war or hostilities break out between any two or more of the following countries United Kingdo United States of America, Union of Soviet Socialist Republics, People Republic of China, Canada, Japan Charterers shall have the right of cancelling the charter upon 60 days prior notice of the Cancellations due to commencement of Hostilities.	270 271
Additional War Expenses ster Officer an War Insurance	34. Any extra expenses which may be incurred by Owners if the vessel has to trade in areas where there is war (de facto or de jure) shall be borne by Charterers, provided that before such expenses are meutred Charterers are given an opportunity to signify their approval. Airy increase in war bonus to the dCrew over and above that in effect on the date hereof shall be for (35. War and/or mine risk insurance, if any, shall be for Owners' account, but notwithstanding the provisions of clause 5 hereof, war risk insurance on hull and machinery on a mutually agreed value in excess of the rate ruling at the date hereof shall be for Charterers' account.	272 273 274 Charter 275 276 277
War Risks	36. (1) The master shall not be required or bound to sign bills of lading for any blockaded port or for any port which the master or Owners in his or their discretion consider dangerous or impossible to enter or reach.	278 279 280
	(2) (A) If any port of loading or of discharge named in this charter or to which the vessel may properly be ordered pursuant to the terms of the bills of lading be blockaded, or	281 282
	(B) if owing to any war, hostilities, warlike operations, civil war, civil commotions, revolutions, or the operation of international law (a) entry to any such port of loading or of discharge or the loading or discharge of cargo at any such port be considered by the master or Owners in his or their discretion dangerous or prohibited or (b) it be considered by the master or Owners in his or their discretion dangerous or impossible for the vessel to reach any such port of loading or of discharge. Charterers shall have the right to order the cargo or such part of it as may be affected to be loaded or discharged at any other port of loading or of discharge within the range of loading or discharge ports respectively established under the provisions of the charter (provided such other port is not blockaded or that entry thereto or loading or discharge of cargo thereat is not in the master or Owners' discretion dangerous or prohibited). If in respect of a port of discharge no orders be received from Charterers within 43 hours after they	283 284 285 286 287 288 289 290 291 292
	or their agents have received from Owners a frequest for the nomination of a substitute port. Owners shall then be at liberty to discharge the cargo at any port which they or the master may in their or his discretion decide on (whether within the range of discharge ports established under the provisions of the charter or not) and such discharge shall be deemed to be due fulfilment of the contract or contracts of affreightment to far as cargo so discharged it concerned. In the event of the cargo being low fed or discharged at any such other port within the respective range of loading or discharge ports established under the provisions of the charter, the charter shall be read to respect of freight and all other condutions whatsoever as if the voyage performed were that originally designated. However, if the vessel discharges the cargo at a port outside the range of discharge ports established under the provisions of the charter, freight shall be paid as for the voyage originally designated and all extra expenses involved in reaching the actual port of discharge and/or discharging the cargo thereat shall be paid by Charterers or cargo owners. In this latter event Owners shall have a lieu on the cargo for all such extra expenses.	293 294 295 296 297 298 299 300 301 302 303 304
	(3) The vessel shall have liberty to comply with any directions or recommendations as to departure, arrival, routes, ports of call, stoppages, destinations, zones, waters, delivery or in any other wise whatsoever given by the government of the nation under whose flag the vessel sails or any other government or local authority including any de facto government or local authority or by any person or body acting or purporting to act as or with the authority of any such government or authority or by any committee or person having under the terms of the war risks insurance on the vessel the right to give any such directions or recommendations. If by reason of or in compliance with any such directions or recommendations anything is done or is not done, such shall not be deemed a deviation.	305 306 307 308 309 310 311 312
	If by reason of or in compliance with any such direction or recommendation the vessel does not proceed to the port or ports of discharge originally designated or to which she may have been ordered pursuant to the terms of the bills of lading, the vessel may proceed to any port of discharge which the master or Owners, in his or their discretion may decide on and there discharge the entrop. Such discharge shall be deemed to be due fulfilment of the contract or contracts of afferightment and Owners shall be entitled to freight as if discharge had been effected at the port or ports originally designated or to which the vessel may have been ordered pursuant to the terms of the bills of lading. All extra expenses involved in reaching and discharging the cargo at any such other port of discharge shall be paid by Charterers and/or cargo owners and Owners shall have a lien on the cargo for freight and all such expenses.	317 318 319
	Charterers shall procure that all bills of lading issued under this charter shall contain the foregoing clause so far as applicable to bills of lading.	322 323
Both to Blame Collision Clause	37. If the liability for any collision in which the vessel is involved while performing this charter falls to be determined in accordance with the laws of the United States of America, the following provides shall apply:	324 325
	"If the ship comes into collision with another ship as a result of the neelly code of the other ship and any act, neglect or default of the master, manner, pilot or the servants of the catter in the navigation or in the management of the ship, the owners of the goods carried hereunder will indemnify the carrier against all loss, or diability to the other or non-carrying ship or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsweer of the owners of the said goods, paid or payable by the other or non-carrying ship or her owners to the owners of and goods and set of, recouped or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying ship or carrier.	327 328 329 330
	The foregoing provisions shall also apply where the owners, operators or those in charge of any ship of ships or objects other thise, or in addition to, the colliding ships or objects are at fault in respect to a collision of	333 334 335

	Charteress shall procure that all bills of hading issued under this charter shall contain a provision in the foregoing terms, to be applicable where the liability for any collision in which the vessel is involved falls to be determined an accordance with the laws of the United States of America.	336 337 338 -
New Jason Clause	38. General average shall be payable according to the York/Antwerp Rules, 1930, and shall be adjusted in London but should adjustment be made in accordance with the law and practice of the United States of America, the following provision shall apply:-	339 340 341
	"In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the carrier is not responsible, by statute, contract or otherwise, the goods, shippers, consideres or owners of the goods shall contribute with the carrier in general average to the payment of any sacrifices, tosses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods.	342 343 344 345 346 347
	If a salving ship is owned or operated by the carrier, salvage shall be paid for an fully at if the said salving ship or ships belonged to strangers. Such deposit as the carrier or his agents may deem subheient to comer the estimated contribution of the goods and any salvage and special charges thereon shall, if required, he made by the goods, shippers, consigness or owners of the goods to the carrier before delivery."	348 349 350 351
	Charterers shall procure that all bills of lading issued under this charter shall contain a provision in the foregoing terms, to be applicable where adjustment of general average is made in accordance with the laws and practice of the United States of America.	352 353 354
Paramount Clause	39. Charterers shall procure that all bills of lading issued under this charter shall contain the following Paramount Clause:-	355 356
	"This bill of lading shall	357
	(1) in relation to the carriage of any goods from any port in Great Britain or Northern Ireland to any other port whether in or outside Great Britain or Northern Ireland have effect subject to the provisions of the Carriage of Goods by Sea Act, 1924, and to the Rules contained in the Schedule thereto as applied by that Act and nothing herein contained shall be deemed a surrender by the Carrier of any of his rights or immunities or an increase of any of his responsibilities or liabilities under the said Act;	358 359 360 361 362
	(2) in relation to the carriage of any goods from any port of shipment in territory in which legislation similar in effect to the Carriage of Goods by Sea Act, 1924, of the Unuted Kingdom is in force, have effect subject to such legislation and to the Rules contained in the Schedule thereto as applied by such legislation and nothing herein contained shall be deemed to be a surrender by the Carrier of any of his rights or immunities under the said legislation or an increase of any of his responsibilities or liabilities under the said legislation; and	363 364 365 365 367 367
	(3) in any other case have effect as if the contract of carriage herein contained were a contract of carriage to which the provisions of the Carriage of Goods by Sea Act, 1924, of the United Kingdom applied and the Carrier shall be entitled to the benefit of the privileges, rights and unminities conferred by the said Act and the Rules contained in the Schedule thereto as if the same were herein specifically set out.	369 370 371 372
	If any term of this bill of lading be repugnant to she provisions of the said Act or to the said legislation to any extent, such term shall be void to that extent but no further."	373 374
Law and Litigation	40. (a) This charter shall be construed and the relations between the parties determined in accordance with the law of England.	375 376
•	(b) Any dispute arising under this charter shall be decided by the English Courts to whose jurisdiction the parties agree whatever their domicile may be;	377 378
	Provided that either party may elect to have the dispute referred to the arbitration of a single arbitrator in London in accordance with the provisions of the Arbitration Act, 1950, or any statutory modification or re-enactment thereof for the time being in force. Such election shall be made by written notice by one party to the other not later than 21 days after receipt of a notice given by one party to the other of a dispute having prisen under this charter.	379 380 381 382 383
	41) Charterers agree to reimburse Owners for TOVALOP (or any succe	SSOT
	or substitute organization) insurance premium and costs.	
	42) Owners have the option to perform periodical drydocking in Jap with 90 days advance notice and Charterers to agree to send the	
	vessel to Persian Gulf. In this case no hire shall be payable	
	for the following period as offhire:	1
	From the time of passing Quoin Island for loading cargo of Own	ers
	account to Japan, to the time of passing Quoin Island for load cargo of Charterers account from Japan after drydocking.	rug
THE SANKO ST	EAMSHIP CO., LTD. NEWFOUNDLAND REFINING COMPANY LI	MITED
W.	chikema Voyle Turnak	
Isamu Nishik	awa, Managing Director Foy M. Furmark, EXECUTIVE VICE P	RESIDENT
Attorney in		
C.	表现的数据 "这 是我们是我们,我们就是我们的人,我们就是我们的人,我们就是我们的人,我们就是我们的人,我们就是我们的人,我们就是我们的人,我们就是我们的人,我们就会	

DATE : Ougust 8/1972

FORM B (July, 1969)

PARTICULARS OF VESSEL NEW YORK, AUGUST 8, 1972

SASEBO HULL NO. 230

This form is to be completed and returned to Shell International Marine Limited as soon as possible after charter negotiations are commenced. When completed and agreed the form will eventually be incorporated into the Charter Party and the particulars contained therein will be taken as representations by Owners and binding upon them.

Particulars to be Completed 1. CLASSIFICATION ... NIPPON KAIJI KYOKAI OR EQUIVALENT 2. DEADWEIGHT (Classified summer freeboard) abt. 271,000 3. DIMENSIONS (a) Length overall (b) Length between perpendiculars ... - --53.50 N 21.30 M (d) Draft fully laden in salt water on classified summer freeboard (e) Underwater length measured between perpendiculars drawn at the after side of the rudder plate and at the foreside of the foremost extremity of any part of the hull which is below __ the horizontal line drawn through the top of the rudder plate ---4. MACHINERY (a) Type of Propelling Machinery ... CROSS COMPOUND STEAM TURBINE S.P.S. XXXXXX & 90 R.P.K. (b) Maximum rated B.H.P. and R.P.M. S.P.S. 36,000 SEKAP. @ 90 R.P.M. (c) Proposed service B.H.P. and R.P.M. 5. BOILER AND STEAM CAPACITY 2 SETS SASEBO - FW "MD" MOND-WALL (a) Number and type WATER TUBE TYPE ----(b) Total heating surface (c) Tetal service steam capacity abt 251,000. lbs. per br. (d) Guaranteed minimum temperature at which cargo heating can be maintained (in accordance lbs. per hr. (e) Estimated steam required for maintaining heating as in (d) above lbs. per br. (f) Estimated steam required for essential auxiliaries and ship's services (g) Newweenm available for driving cargo pumps (i.e. total steam available less that required for maintaining beat of cargo, driving auxiliaries and ship's services) ... TO BE ADVISED & SPEED AND CONSUMPTION (a) Speed on fully loaded trials at service B.H.P. and R.P.M. (as to: 6 (c) above) ... kts. IN MODERATE WEATHER (b) Average service speed (BASED ON 50% LADEN/50% BALLAST -16.10 kts. र्क्टिटिट

S. P.

FORM II	Continued)
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		Particulars to be Completed
6.	SPEED A	ND CONSUMPTION (Cominsed)
	(c) F:	vel consumption per day at sen for all purposes except cargo beating or tank caning at average service speed:
		(1) Main engines or boilers 175 L. toes per day
		Grade of bunkers MAX VISCOSITY OF 3,500 SECS. R.W. NO.1 AT 100°F
		(2) Auxiliary boilers (if auxiliaries are electrically driven consumption of diesel generators) L. tons per day
		Grade of bunkers
7.	BUNKER	AND WATER CAPACITY
	STEAMIN	G RANGES
	. ва	UNKERS Feel Diesel
	(a) M	aximum rates at which lines will receive bunkers TO BE ADVISED DXXX.
	(b) B	noker consumption per L. ton of water evaporated TO BE ADVISED
	(c) C	apacity of busher tanks
	(d) St	caming range afforded by capacity of bunker tanks abt 25,900 Miles
	(e) N	amber of grades of bunkers can segregate TO BE ADVISED Grades
	F	RESH WATER
	wi	vessel equipped with fresh water evaporating capacity (and sterilizing equipment neer necessary) sufficient to meet all needs of boilers, washing and potable uposes? YES
	(b) C	spacity of water tanks abt 700 L.tons
	(e) St	eaming range afforded by capacity of water tanks
		ally consumption of boilers TO BE ADVISED L.tons
	(e) D	TO BE ADVISED L.tons
	(n E	raporator capacity L.tons p.d.
		LOADING/DISCHARGING ARRANGEMENTS
8.	CARGO T	
	(a) N	mber of compartments 21 (INCL. 2 SLOP TANKS)
	(b) I	stal capacity in fresh water tons (98% full) abt 323,000 L.tons
		umber of grades can segregate with two valve separation 2 Grades
	(q) C	so vessel fulfil requirement of Item of in the Digest?" TO BE ADVISED
	(e) C	an vessel load/discharge cargo with up to 14 lbs. Reid's vapour pressure? YES
9.		OADING PERFORMANCE.
	(a) M	arimum rate at which vessel can load homogenous carge abt 18,000 L. tons per bt.
	(b) Mi	multaneously L. tons per hi-

FORM & (Continued)

	Particulars to be Completed
· · · · · · · · · · · · · · · · · · ·	
ID. AMIDSHIPS LOADING AND DISCHARGING MANIFOLDS (a) What is the distance of centre of manifolds from amidships (from mid-length position)?	TO BE ADVISED
(b) Distance of manifold flanges from ship's rail	-"
(c) Height of centres of flanges above deck or working platform	_==
(d) Distance between centres of manifold finages	"-
(e) Is vessel equipped with sufficient reducing pieces to enable loading and discharging connections on port or starboard sides to be connected to 12", 10" or 8" boses?	YES
(f) Number of loading/discharging lines can connect on each side	4
(g) Number and position of bunkering connections relative to loading/discharging manifolds	TO BE ADVISED
(b) Number and position of watering connections relative to loading/discharging manifolds	-n-
(i) Do loading and discharging manifold arrangements comply with all other requirements of Item 13 in the Digest?	_11_
11. CARGO AND BUNKERING LINES	
Does arrangement of cargo lines, valves, gas venus etc. permit:	
(a) Stern as well as normal amidships loading/discharging lot (i) Cargo	TO BE ADVISED
(ii) Bunkers	-0-
(ii) Bunkers (b) State number of grades can load/discharge simultaneously through amidabip connection with two valve separation without risk of contamination	_M_ Grades
* (b) State number of grades can load/discharge simultaneously through amidabip connection with two valve separation without risk of contamination	
" De State number of stades can load/discharge simultaneously through amidship	
(b) State number of grades can load/discharge simultaneously through amidabip connection with two valve separation without risk of contamination	-M- Grades
(b) State number of grades can load/discharge simultaneously through amidship connection with two valve separation without risk of contamination	TES . abt 11 % TO BE ADVISED
(b) State number of grades can load/discharge simultaneously through amidship connection with two valve separation without risk of contamination	_M_ Grades YES . abt 11 %
(b) State number of grades can load/discharge simultaneously through amidship connection with two valve separation without risk of contamination	TES . abt 11 % TO BE ADVISED
(a) State number of grades can load/discharge simultaneously through amidship connection with two valve separation without risk of contamination	TES . abt 11 % TO BE ADVISED Hrs.
(a) State number of grades can load/discharge simultaneously through amidship connection with two valve separation without risk of contamination 12. BALLASTING SYSTEM (a) Is vessel equipped with separate ballanting system? (b) State percentage of ship's summer deadweight separate system can contain (c) Time required load and discharge quantity of ballast as in (b) (d) BALLAST PUMP 2,000 m/h x 155 m/HEAD	TES . abt 11 % TO BE ADVISED Hrs. Hrs.
(a) Is vessel equipped with separate ballanting system? (b) State percentage of ship's summer deadweight separate system can contain (c) Time required load and discharge quantity of ballant as in (b) (d) BALLAST BUMP 2,000 m/h x 155 m/HEAD	TES . abt 11 % TO BE ADVISED Hrs.
(a) Is vessel equipped with separate ballanting system? (b) State percentage of ship's summer deadweight separate system can contain	TES . abt 11 % TO BE ADVISED Hrs. Hrs.
(b) State number of grades can load/discharge simultaneously through amidabip connection with two valve separation without risk of contamination 12. BALLASTING SYSTEM (a) Is vessel equipped with separate ballasting system? (b) State percentage of ship's summer deadweight separate system can contain (c) Time required load and discharge quantity of ballast as in (b) (d) BALLAST PUMP 2,000 m/h x 155 m/HEAD	TES . abt 11 % TO BE ADVISED Hrs. Hrs.
(b) State number of grades can load/discharge simultaneously through amidabip connection with two valve separation without risk of contamination 12. BALLASTING SYSTEM (a) Is vessel equipped with separate ballanting system? (b) State percentage of ship's summer deadweight separate system can contain (c) Time required load and discharge quantity of ballant as in (b) (d) BALLAST PUMP 2,000 m²/h x 155 m/HEAD	TES . abt 11 % TO BE ADVISED Hrs. Hrs.
(b) State number of grades can load/discharge simultaneously through amidabip connection with two valve separation without risk of contamination 12. BALLASTING SYSTEM (a) Is vessel equipped with separate ballasting system? (b) State percentage of ship's summer deadweight separate system can contain (c) Time required load and discharge quantity of ballast as in (b) (d) BALLAST PUMP 2,000 m/h x 155 m/HEAD	YES abt 11 % TO BE ADVISED Hrs. Hrs.
(b) State number of grades can load/discharge simultaneously through amidabip connection with two valve separation without risk of contamination 12. BALLASTING SYSTEM (a) Is vessel equipped with separate ballasting system? (b) State percentage of ship's summer deadweight separate system can contain (c) Time required load and discharge quantity of ballast as in (b) (d) BALLAST PUMP 2,000 m/h x 155 m/HEAD	TES . abt 11 % TO BE ADVISED Hrs. Hrs.

Δ 47

Exhibit 2

	Continued)	
:		Parriculars to be Completed
13. CARG	O PUMPS (Continued)	
(e)	Designed rated capacity of each pump in cubic metres water per hour at .85 metres head at ship's manifold	4,500 c.m.p.h.
თ	Estimated steam consumption of each pump when discharging to capacity as per (c) above	TO BE ADVISED lbs. per hr.
14. STRIP	PING PUMPS	
(=)	Number and size	1 SET
. (ь)	Capacity of each pump in cubic metres water per hour at 85 metres head at	
(c)) EDUCTOR 800 m ³ /h x 35 m/HEAD	400 c.m.p.b.
(a)	Type of coils and material of which manufactured	•••
(ъ)	Ratio of tank volume/heating surface:	
	(1) Centre tanks	•••
	(2) Side tanks	- NOT APPLICABLE
(c)	Height of coils from tank bottoms	•••
16. SLOP	TANKS AND TANK CLEANING	
	Is vessel fitted with a slop tank and able to fulfil Item 10 (a) in the Digest?* SLOP TANK SYSTEM TO CONSIST OF ONE PREIMARY SLOP TANK SLOP TANK WITH TOTAL CAPACITY OF ABT-7,000 m Type of tank cleaning equipment fitted	VK AND ONE SECONDARY
		FIXED TIPE
(c)	Type of gas extraction equipment fitted	TO BE ADVISED
	Type of gas extraction equipment fitted	
17. MOORI		
17. MOORI	NG AND LIFTING EQUIPMENT	TO BE ADVISED
17. MOORI (a) (b)	Does vessel conform with Item 13 in the Digest?*	TO BE ADVISED
17. MOORI (a) (b) (c)	Does vessel conform with Item 13 in the Digest?*	TO BE ADVISED NO 2 K Mons
17. MOORI (a) (b) (c) (d)	Does vessel conform with Item 13 in the Digest?*	TO BE ADVISED NO 2 K Ditons 20 K Milons
17. MOORI (a) (b) (c) (d)	NG AND LIFTING EQUIPMENT Does vessel conform with Item 13 in the Digest?*	TO BE ADVISED NO 2 K Dions 20 K Lions Lions
17. MOORI (a) (b) (c) (d) (e) 18. GENEI	NG AND LIFTING EQUIPMENT Does vessel conform with Item 13 in the Digest?*	TO BE ADVISED NO 2 K Dions 20 K Lions Lions
17. MOORI (a) (b) (c) (d) (e) 18. GENEI	Does vessel conform with Item 13 in the Digest? Sale working load of detrick or davit on poop deck Sale working load of detricks in way of manifold Sale working load of detrick for handling forehold cargo Type of winches (electric, steam etc.)	TO BE ADVISED NO 2 K Lions 20 K Lions Lions STEAM
17. MOORI (a) (b) (c) (d) (e) 18. GENEI (a) (b)	NG AND LIFTING EQUIPMENT Does vessel conform with Item 13 in the Digest? Safe working load of detrick or davit on poop deck Safe working load of detricks in way of manifold Safe working load of detrick for handling forehold cargo Type of winches (electric, steam etc.)	TO BE ADVISED NO 2 K Mions 20 K Mions Lions STEAM
17. MOORI (a) (b) (c) (d) (e) 18. GENEI (a) (b)	NG AND LIFTING EQUIPMENT Does vessel conform with Item 13 in the Digest? Safe working load of derrick or davit on poop deck Safe working load of derricks in way of manifold Safe working load of derrick for handling forehold cargo Type of winches (electric, steam etc.) RAL Are hull stress calculators fitted?	TO BE ADVISED NO 2 K Lions 20 K Lions Lions TEAM YES NONE
17. MOORI (a) (b) (c) (d) (e) 18. GENEI (a) (b)	NG AND LIFTING EQUIPMENT Does vessel conform with Item 13 in the Digest?* Sale working load of derrick or davit on poop deck Sale working load of derricks in way of manifold Sale working load of derrick for handling forehold cargo Type of winches (electric, steam etc.) RAL Are hull stress calculators fitted? Cubic capacity of forehold Is forehold registered for low clash cargoes? Does Radio equipment conform to Item 14 (a) (i) in the Digest?*	TO BE ADVISED NO 2 K Mons 20 K Mons Lions STEAM YES NONE NO
17. MOORI (a) (b) (c) (d) (e) 18. GENEI (a) (b) (c) (d)	Does vessel conform with Item 13 in the Digest? Safe working load of derrick or davit on poop deck Safe working load of derricks in way of manifold Safe working load of derrick for handling forehold cargo Type of winches (electric, steam etc.) RAL Are hull stress calculators fitted? Cubic capacity of forehold Is forehold registered for low llash cargoes? Does Radio equipment conform to Item 14 (a) (i) in the Digest?	TO BE ADVISED NO 2 K Mions 20 K Mions Lions STEAM YES NONE NO YES

FORM B (Continued)

••		,																Particulars to be Completed
18. GI	ENE	RAL (Co	ntinued))		•												
	(h)	Type of	Radar	litted	T	WO S	ETS	OF	RE	LAT	IVE	MO	TIO	N R	ADA	R		
	(i)	Is Decc	a Navig	ator fi	ted?	•••	•••	•••	•••	•••	•••	•••		•••	•••		•••	YES
	(j)	Is subm	erged lo	g fitte	d?		•••			•••	•••				•••	•••	•••	YES
	(k)	Are any	auxilia	ries ru	g ao a	asoil	١,			•••	.***	•••	000	•••	•••	. ***	•••	NO
		If so give	ve detai	ls of c	onsum	ption		•••	•••			•••	•••	•••	•••	•••	•••	_
•	(1)	Type of	power	used fo	or stee	riag	mach	inery		,***	•••	•••	•••	•••	•••	•••	•••	ELECTRIC HYDRAULIC
	(m)	Type of	galley	and fu	el req	uired			•••		•••		•••	•••	•••	•••		ELECTRIC
	(a)	Is Suez	Canal	Projec	tor fitt	ed?	•••	•••	•••	•••		•••	•••	•••	•••	•••	•••	TO BE ADVISED
	(0)	If vesse Panama									nal t	ransi	t wil	l sbe	con	ply	with	
		(1)	Grade "	A" car	goes			•••	•••	•••	•••	•••	•••	•••	•••	•••	•••	<u> </u>
		(2)	Grade "	B" ca	goes	•••	•••		•••		•••	•••	•••	•••	•••	•••		-
		(3)	Grade *	C ca	rgoes		•••		•••	•••			•••	•••	•••	•••	•••	-
		(4)	Grade *	D" ca	goes	•••		•••	•••	···	•••	•••	. ***	•••	•••	•••		-

- N.B. When submitting this Form the following plans should be attached :-
 - (1) General Arrangement Plan
 - (2) Pumping Arrangement Plan
 - (3) Plan of argo Tank Ventilating System
 - (4) Characteristic Curves of Pumps if Centrifugal Pumps installed.
 - "Digest" refers to Shell International Marine Limited's Digest of Charterers'
 Requir sents dated September 1967 and any subsequent amendments thereto.

Ruf.

4th April, 1374

SSK 230 Final Particulars

Ships Name	ELEFTHEROUPOLIS
Official Number	4765
Callsign	A8AF
NRT	109,577.70
GRT	132,034.13
DWT (Summer)	281,010 LT (285,506 KT)
Draft (Summer)	21.795 m
LOA	340.00 M
LBP	324.00 M
Beam (Moulded)	53.50 H
Depth (Moulded)	28.40 M
Cargo Tank Capacity	
Ballast Tank Capacity	
Fuel Tank Capacity	F.O.: 15,109.8 M ³ D.O.: 243.3 M ³
Fresh Water Tank	499.3 M ³
Derrik SWL	20 M/T

50

Exhibit 2

DELIVERY .

Name of Vessal

: S.S. "Eleftheroupolis"

Owners .

: The Sanko Steamship Co., Ltd.

Charterers

: New Foundland Refining Co., Ltd.

We, the under-signed, hereby certify that SS "Eleftherouplis" has been delivered on time-charterers to New Foundland Refining Co., Ltd. the Charterers from The Sanko Steamship Co., Ltd., the owners at 338 hrs on April 1st 1974 (Bide Hrs April 1st 1974 GMT) at which time there remained as follows. 0107

Heavy Fuel Oil

4,472,35 L/T

Diesel Oil

: 157.46 L/T

Water

Remarks: Replenished time-charterers bunkers as follows. on March 28th 1974.

Heavy Fuel Oil : 2,313.19 L/T

Diesel Oil

49,29 L/T

SS "Eleftheropoulis"

Sasebo Harber Transport Co., Ltd. On behalf of Charterers

Sasabo lartor Transport Co., Ltd. on behalf of the Owners

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EXHIBIT 3--CHARTER PARTY (BARBARA T. SHAHEEN) ANNEXED TO AFFIDAVIT OF ROY M. FURMARK

BARBARA T. Shillren

EXMINIT 3

-Code word for this Charter Party

Issued June 1993

-Cime Charter Party

MESTASTA

XIX

New York, August 8, 1972

muterie. Hail 960 muterie stransaching a chilar (man Taylo)

1bout 276,000 DAT at mer draft about It is this hap agreed between The Sanko Steamship Company Limited 70 meters with mese, Liberian, of Tokyo, Japan (hereinafter referred to 25 "Owners"), being Owners of the 1 good newbuilding steam tank vessel cylinds of which Yard and Hull Number to be advised amania, or Singapore and of 1973 (herewalter afterned to as "the vessel") described as per clause 24 hereaf and Newfoundland Refining Company Ltd. St. John's, Newfoundland (hereinalter referred to as "Cianteren"). 1. Owners gouranted that at the date of delivery of the vessel under this charter Deteription. (a) she shall be classed Nippon Kaiji Kyokai or equivalent (b) she shall be in every may fitted for birming merice diesel oil or firel oil with a maximum viscosity of 5500 seconds Reduned I at 100 degrees Fain main motors and any commercial grees of fuel oil under builders and oil under boilers; and 10, 280 Kcal/K.G. (H.C.V.) (c) she shall tesfolly critical combinations of heating and maintaining consoning to reproduce the standard combination of the standard combinations of the stand Owners shall, before and at the date of delivery of the vessel under this charter, exercise one diligence Condition to make the vessel 1: (a) in every way hi to carry crude petroleum and/or its products; and (b) tight, statude, strong, in good order and condition, in every way fit for the service, with her mechinery, boders and bull in such a state as to obtain the most economic working and write a full and entition complement of matter, officers and crew for a vessel of her tomage. Owners undertake that throughout the period of service under this charter they will, whenever the possess of time, went and teur or any event (whether coming within clause 28 hereof or not) requires steps to be taken to mainte in the vessel as stipulated in clause I hereof and in this clause or to restore the vessel to such condition, exercise due diligence to maintain or restore the vessel as aforesaid, and that they will comply with the regulations in force so is to enable the vessel to pass through the Sucz and Panuma Canals by day and right without delay. without dalay. 3. Owners agree to bit and Charterers agree to hire the vessel for a period of 8 (Eight) years, 14 (Fourteen) days more or less at Charterers option.

of complex all lawful merchandine including in purioular crude oil and/or its dirty 24 Period and Trading Limits inding communist and petroleum products munist controlled in any part of the world, as Charterers thatt direct, subject to the limits of the current British Institute Warranties and any tuberquent emendments the mof, it being understood that Charterers shall not send the vassel to ice-bound waters without Oamers' control but such consent shall not be unreasonably withheld. 27 26 29 itries, Cuba and el ports, except 1 Owners' prior Charterers shall energise for Chaptere to ensure that the vessel is only employed between and at safe ports, mires sonably withhold places, britis, docks, encourages and submanus lines where the can always he indray afford, but notwides under a system contained in this or any other claims of this charter. Charterers shall not be deemed to warrant the safety ent in Japan or at a levely for lower demant can still be inchested or submanus lines where the charter shall not be deemed to warrant the safety ent in Japan or at a long point, place, being, dock, such professor or submanus line and small be under no hability in respect thereof expects the disposar as afteresaid. Subject as above, the latest of the charter or other vestels as Charterers may direct. 30 31 32 33 33 35 35 sian Gulf than the 37 The sense! shall be delivered by Owners at a port in Japan, or at a point not : of delivery further in distance from Persian Gulf than Japan at Oaners' option and inclinered to Owners at Owners shall notify Charterers of the 33 estimated time of delivery in written letter, telex or cable on 30 (Thirty) 39 at Charterers' option. days at least prior to delivery and

40 4. The vessel shall not be delivered to Charterers & fore January 1, 1975 Landara and Charterers shall have the notion of cancelling this charter if the vessel is not ready and at their disposal on or before. June 30, 1977 Cantelling 41 5. Omers undertake to provide and to pay for all provisions, wages, and shipping and discharging fees and all other expenses of the master, officers and crew; also, except as provided in claims 3% and 35 beroif, to pay for all insufance on the vevel, for all disch, cabin and compositions, and vater, except water for the bodies which (inflant the vevel is off him) is to be supplied and paid for by Charterers; and for all fungation enjoyation and detaination exemption certificate. Charter obligations under this clause extend to caver all liability for customs or import duties arising at any time duting the performance of this charter in relation to the personal effects of the matter, officers and crew, and in relation to the stores, provisions and other natities aforewid which Owners are to provide and/or pay for and Owners shall refund to Charterers any sums they or their agents may have paid or been compelled to pay in respect of such lability. Any amounts almost all provisions and stores shall be credited to Charterers insofar as such amounts are in respect of a period when the vessel is on him. 43 41 45 Chaners to 45 47 48 49 50 51 52 53 when the versel is on live. 6. Charterers shall provide and pay for all fuel (except galley feet), towage and placage and shall pay agency fees, port charges, commissions, expenses of leading and unleading cargoes, conal dues and all charges other than those payable by Owners in accordance with the proceeding charse hereof, provided that all charges for the said items shall be paid by Owners when incurred for Owners' purposes, whether the vessel is on line or off-thie. The forecoing provision as to fuel shall not apply to used in connection with a general average samilee or expenditure or with the propuration for and the drydocking or repair of the vessel which shall in any event be paid for by Owners. 54 55 55 57 58 59 60 Charterers 10 rovide 7. Subject as herein provided Charterers shall pay for the use and hire of the vested at the rate of U.S.\$2.22 (Two United States Dollars and Twenty-Two Conts)

Put tone 1-2-20 the vested lead-weight on put tone 1-2-20 the vested lead-weight on 101.220 lbs.

Classified summer freehoard, as assigned at the calculated, per calendar month, commencing at and from the time and date of her delivery as aforestid, and pro rate for any part of a month, and commence that the time and date of her redelivery to Owners.

8. Payment of the said nine shall be made in tendence in the summer of the said any straights defounded on Owners' behalf and less any numerical processing in account of the said nine shall be made in tendence to Charterers as may reasonably be estimated by them to relate to of-thire periods, and less any amounts due or estimated to become due to Charterers under the term, of claus. 24 hereof, any industriant to be made at the due date for the next monthly payment after the facts have been accommed. In default of such payment Owners may withdraw the vessel from the service of Charterers, without prejudice to any claim Owners may otherwise have on Charterers under this charter. 61 Rate of Hire 62 63 64 66 67 68 Payment of 69 70 71 72 9. The whole reach, burthen and decks of the vessel and its passenger accommodation (which shall be seemed to include Owners' sure), if any, shall be at Charterers' disposal, reserving only proper and sufficient space for the vessel's master, officers, crew, tackle, apparel, furniture, provisions and store, provided that the weight of stores on bound shall not, unless specially agreed, exceed \$50 ions at any our time doing life period of the charter. The vessel shall load and denlarge cargo as repaidy as possible by right as well as by day when required by Charterers or their agents to do so. Charterers may constitute with the affety of the vessel remove any stancthions and hidders, which shall, if required, be replaced by their before redelinery at their own expense and to the satisfaction of Owners' surveyor.

10. The master shall prosecute his voyages with the utroust despatch and shall render all reasonable estimate with the vessel's refleve and economic overtime pay of the master, of lowes and economic with shap's wright bring at Charterers' expense when incurred as a result of complying with the request of Charterers or their square. 73 74 75 76 77 78 79 Space Available to 81 Duties of £) The master shall be furnished by Chamerer, from time to sime with all require instructions and 25 26 27 29 50 Institutions 11. The master shall be furnished by Characters from that to take with all help the britished with sailing directions, and shall keep a full and content log of the voyage, which shall be open to entection by Characters or their agents at required. The muster shall furnish Characters or their agents when required to do so with a true copy of such log hard with properly completed londing and discharging purt shorts and voyage reports for each voyage and other returns as Characters thay require. Characters shall be entitled to take copies at Owners' expands of any of such documents as are not provided by the master. and Lugs 12. If Charterers shall complain of the conduct of the master or any of the officers, Owners and Charterers jointly shall immediately investigate the complaint; and if the complaint prove to be well founded, Owners shall, without delay, make a change in the appointments. 91 92 93 Conduct of Personnel 13. The mister falthough appointed by Owners) shall be under the orders and direction of Charterers as meands employment of the vessel, agency or other arrangements. Bills of loding are to be signed at any race of freight Charterers or their agents raby direct, without projectice to this charter, the master attenting as necessary at the others of Charterers or their agents to do so. Charterers bereby indentually Owners against all consequences or liabilities that may cause from the master. Charterers or their agents signing bills of leding or other documents, or from the inaster otherwise complying with Charterers' or their agents' orders, as well as from any irregularities in appears supplied by Charterers or their agents. The cold informing shall not extend to any consequences or liabilities or agoly to any loss or driving a nitrue from orders to proceed to, enter, tensin in or at, depart from or white berth in or at any port, other, berth, dock, anchorage or substitute line, other than consequences or liabilities or loss or damage resulting from or caused by failure to exercise dur chigence as required by clause 3 brood. 94 95 95 97 98 99 Lading 1W 102 103 104 Stevedores when required shall be employed and paid by Charterers, but this shall not relieve Owners from responsibility of the interest for proper stoward, which must be controlled by the master, who shall keep a strict account of the arrept leaded and distincted. Owners hardly indemnify Chaiterers, their sustaints and agents, against all locate, chains, responsibilities and liabilities arrang an any way wasteover from the employment of pulse, reptours or secretairs who obtained employed by Charterers shall be decread to be the servants and in the service of Owners and quarter time unsuccious.* 105 104 107 105 110

44. Characters thall except and pay for all bunker oil and boiler water on board at the time of delivery, and Gomers thall, on the ra, an of this charter, pay for all banker oil and boiler water then remaining on board at content motive process that respective points. Content shall give Charteress the extract board of any furtheouther to the process of the respective points.

* but such indicators shall not exceed the amount to which Owner, would have been entitled to limit their liability if they had them-close employed such pilots, supboats and stevedures.

Hunkers at Delivery and Redebiery enf

0

Pessengers	15. Charterers may said postulities in the sensits available acts and balen upon the vary go made in the this charter. Owners he big provisions and all requires a coupled to offer in, except legion. Charterers p. 30 g at the rate of USO ₃ Octor day for each passenger while on board the vessel.	115 117 118
Sub-let	 Charterers may sub-let the vestel, but shall always remain responsible to Owners for the due fulfillment of this charter. 	117
Infested Area and Infraction of Local Law	17. Owners shall be liable for any delay in quantities arising from the inester, officers or crew having communication with the shafe at any infected area without the watten constant or instructions of Charterers or their agents, also for any loss of time through detention by costons or other authorities caused by sinugiling or other infraction of local law on the part of the master, officers or crew.	121 122 123 124
Final Voyage	18. Should the sested to on her victure towards the port of redelivery at the time a payment of hire is due, payment of hire shall be made for such length of time to Owners and Charterers may agree upon as being the estimated time neoticity to complete the separate, less any disbutisments made or expected to be made or experient incurred or expected to be incurred by Charterers for Owner's account and has the estimated value of busker fuel remaining at the termination of time voyage, and when the vested is redefit red any owner shall be refunded by Owners or underpayment pied by Charterers. Natwithstanding the provisions of claims 3 hereof, should the vested by upon a voyage at the expert of the period of this charter. Charterers shall have the use of the vested at the same rate and conditions for such extended time as may be made any for the completion of the round voyage on which she is engaged and her return to a port of redelivery as provided by this charter.	125 126 127 128 129 130 131 132 133
Loss of Vessel	19. Should the vessel be lost, him shall come at morn on the day of her loss and, should the vessel be missing, him shall come at morn on the day of which shall shall be returned to Charterers. It is a point which to be mutually agreed between	134 135 136
Laying-up	20. Charterers shall have the optica of frying up the which case the bire provided for under this charter shall be reduced by the amount by which Owners can rezionably reduce the expendituse otherwise falling - upon them under this charter.	137 133 133
Off-Hire	21. In the event of loss of time (whether arising from interruption in the performance of the vessel's service or from reduction in the speed of the performance thereof or in any other manner).	140
	(a) continuing for more than 24 hours, due to deficiency of personnel or stores, repairs, breakdown (whether period or otherwise) of nucleinary or burlers, collision or stranding or accident or distage to the vessel or any other collectioning the efficient working of the vessel; or	142 143 144
	(b) whether or not continuing for 24 hours,	145
	(i) due to strikes, refund to sail, breach of orders or neglect of duty on the part of the master, officers or crew; or	145 147
	(ii) for the purpose of obtaining medical advice or treatment for or landing any sick or injured person (other than a persenger carried unfer clause 15 hereaft) or for the purpose of landing the body of any person (other than such a passenger);	143 119 150
	hire shall cease to be due or payable from the commencement of such loss of time until the vessel is again ready and in an efficient state to resume her service from a position not less favourable to Charterers than that at which such loss of time commenced.	151 152 153
	Any such loss of time which arises wholly or privile from a reduction in the vessel's guaranteed average speed provided in charter 2t hereof shall be taken to be the difference between the time the vessel would require to perform the reference revision and such loss of time shall be added to any loss of time exceeding from interruption in the performance of the vessel's service in order to arrive at the said period of 24 hours.	154 155 156 157 158
	Further and willboard prejudice to the foregoing, in the event of the vested deviating (which expression includes putting back, or putting into any port other than that to which she is bound under the instructions of Charterers) for any cause or for any purpose previously mentioned in this clause, no here shall in any case be pay this as front the communication of such deviation until the time when the vested is again ready and in one enterent state it is resume her survive from a position not less favourable to Charterers than that at which the deviation communiced.	157 160 161 162 163
•	In the event of the vessel, for any cause or for any purpose previously mentioned in this clause, putting into any port other than the just to which sile is bound on the instructions of Charterers, the port charges, privage and other expenses at such port shall be borne by Owners. Should the vessel be driven into port or any anchorage by stress of weather hire-shall continue to be due and payable during any loss of time caused thereby.	164 165 165 167
# (4) ■ (4) 20:41	In the event of detention of the vessel by authorities at home or abroad in consequence of legal action against Owners (unless brought about by the act or neglect of Chartgers), whereby the vessel is rendered unavailable for Charterers' service, the vessel shall be off-hire until the service can again be resumed.	168 169 170
	If the nation to which the vessel belongs becomes engaged in hostilities, hire and all other charges shall cease during the communities of such hostilities if Charterers in consequence of such hostilities find it impossible to employ the vessel and in that event Owners shall have the right to employ the vessel on their own account.	171 172 173
	All drydock charges shall be at Owners' expense. Time lost by the vessel gasfreeing for repairs and in aud- waiting her turn to enter drydock shall, irrespective of duration, count as off-hire.	174
•	Any loss of time during which the vessel is off-hire as provided in this and the succeeding clause shall count as part of the chance period.	176
Periodical Drydocking	22. Owners undertain that he distinctions after the vected was last drydecked and at the expiry thereafter of each major months of continuous me more the charact they will put the vessel in drydeck and clean and publisher bottom at their expresse as soon Bureafter as Characters place the vessel at Owners' disposal, clear of eargo, at a port having suitable accommodation for the purpose.	178 179 183
NTY-FOUR	Norwithstanding the provision in the preceding clause as to time lost by the vessel gasfreeing, time lost in making turks from of gas, as distinct from tank cleaning, for the purpose soldly or, primarily of gen dural bottom glanning and painting shall be for the account of tangeress provided O-mots shall have exercised due diagence to make the transition of gas before the general of the vessel at the drydocking port or as soon as practicable thereafter.	182 183 184 185
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	Owners, Charlier to the light of Owners with any longitudity may pass the versal in and waiting her turn to enter drydock;	126
	shall, irres; ective of duration, count as off-hire.	197
Natter	23. Owners undertake that nil cleaning of boilers and/or opening up of instons and/or exchauling of	195
Cleaning, etc.	engines shall be carried out so fur as it preclicable dotting periods when the visit is early out the said work while	152
to be submitted		201
upon declaration	or pro rate for peri of a year from the commencement of the Chaner period for carrying out the said work.	203
Yard and Hull		204
number and	Nothing in this clause shall affect any other term of this charter which provides that the versel shall be off-hire.	204
wich gorrzintion,	10 1 c bestord on proliminary marticuling of the complete of the description set	205
Description 1	out in Form H grieds	203 207
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	will be not less than 10.4 Hous with a maximum banker consumption of the moderate weather.	- 210
with a maximum Y	will be not less than 10. It has with a mean am Entire constitution to a modernate, went her collect day for all jumpous excluding carpo beging and mak cleanure. It y modernate, went her iscosity of 3,500 seconds Redwood No. 1 at 100 F. 10,260 Keal/Kg. (II.C. The country arranges and shall be calculated in each worly or other less period, as defined businafter.	v.)
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based on 50%	pilot station to pilot station on all see passages during such pariod otherwise and as provided in clause 23 hercof.	213
laden/50% in	the first obligations	214
ballnet		215
•	under this class. Let shall be reduced to the extent extent by the vessel to perform any of her services the failure to conspir with the still obligations affects the time taken by the vessel to perform any of her services this shall be reduced in an amount proportionine to the loss of time taxolized. Reduction of him under the fore-him shall be reduced in an amount proportionine to the loss of time taxolized.	217
	going provisions shall be vitation projection to any other remedy available to Chancerers.	213
	and the charter	219
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	period as appeared in classes of most find systematic two months before the end of the clumer period as an smithed in accordance with Cramerous administrator mode two months before the end of the clumer period as an specified. Any processory adjustment after the end of the charter shall be made by payment by Gonzes to Charterous	222
	or Charleters to United as the case may require.	223
	In the event of any conflict between the purchase out in the atmessaid Form B and any other provision	224
	(including this classes) of this charter such other provision shall prevail.	225
	the state and a singline are eligible at the congregation of this	225
Ten's, cie.	charter and Oamers tied themselves to take every formion presented to administ the states.	227
	in this condition Caracy II. Charter period.	
Salvage	26. All salvage and all proceeds from derelicts shall be divided equally between Orines and Chanceres	213 213 213 213
	after dicturing the missin's, officer's still crews share, the to tenderal are missions of clause 21 horses all has of time	១រ
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	and all expense terminated any contact to these or the contact and the contact provided that Character shall be borne out all vis Countries and Characters provided that Character shall not be liable to contribute towards any salvage payable by Outsin arising in any way one of services rendered	234
	under this ciause.	233
	27. Owners shall have a firm upon all carpoes a dell freights for any amounts due under this charter; and	236
Lim	Charleten shall have a him on the vessel for all moneys paid in activities and the state of	237 238
	damages aroung from any ormain by Owners of this states.	
Exemptions	22. Save that clauses 1, 2 and 24 hereof shall be unaffected hereby, the vessel, but master and Owners shall	239
	22. Save that choses 1/2 and 24 introduction to institution for any loss or demaps aroung or resulting not, unless eitherwise in this character operately provided, he responsible for any loss or demaps aroung or resulting from any not, neglect or despute of the master, points, mariness or other servants of Owners in the navigation or from any not, neglect or despute of the master, points, mariness or other servants of Owners in the navigation of the master.	241
		242
	dangers and condense of the sea; explosion, bursting of matter or Owners not Chatterers shall, imices otherwise	244
		245
	in this charic expresses provided, he response to a suppose that kgall process, quaranting restrictions, strikes, under arising or resolution from act of God, act of war, software under kgall process, quaranting restrictions, strikes, under arising or resolution and acrest or restriction of princes, rulers or poople. The vessel scall have libertly locked in, nots, only commonweal and acrest or restriction of princess, rulers or program.	2:17
	to sail with or without priors, to tok or po to the auxiliance of vestels in distress and to devine for the purpose of saving life or property. This clause is not to be construed as in any way attending the provisions for existing	249
	of saving life or property. This cause is not to be construed at in any way and any of hire as provided in this charier.	250
	the state of the s	251
Injurious Cargoes		252
	taken, nor possess displayed minimals, and without projuit on to the following any damage to the table enumed by the storment of any single carron as aforested shall be at Charterent sick and expurse, and the time taken to repair shall be at Charterent sick and expurse, and the time taken to repair	253 254
	such Genage shall to for Characters' schount.	255
	the case has the case of machine for use in the ratio motors making diesel oil or feel oil with	256
Grade of Bariers	1 3. Comment it ad one () at 1 2 comment to and 1/17 per 127 CT 122 Date and description to the	257 258
	a marriage visitor of 100 mers require the visited to be supplied with more expensive bunkers they shall be liable for the extra cost thereof.	259
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	for the Country of the Hang of the Ye	:41	
Dichuments	The Should the number permite advantage for a density design of part, electrocers of their agent, shall not be such advances to him, or consideration of which Owners shall pay a commission of 2½ per cent, and all such advances shall be deducted from him.	260 261 262	
Requisition	32. Should the search be requisitioned by the during the period of this charter, the vessel shall be deemed to be off-hire during the period of such requisition, and any hire goal by the sand Government in respect of such requisition period shall be for Owners' account. The period during which the verret is on requisition to the sand Government shall count as part of the period.	263 264 265 265	
	provided for in chinge 3 of the Charter. United Kingdon	267	
Outbreak	33. If war or hostilities break out between any two or more of the following countries	263	
of War	United States of America, Union of Soviet Socialist Republics, People: Republic of China, Canada, Japan both Owner and Chatteres that the true related constitute the chatter. upon 60 days prior notice of the Cangellations due to commencement of Hostilities.	270 271	
Additional War Expenses	34. Any extra expenses which may be incurred by Owners if the vessel has to trade in amos where there is war (do factorer do jure) shall be corner by Chartevers, provided that before such expenses are incurred Chartevers are given an opportunity to signify their approval.	212 213 274	
V'ar Insurance	35. War and/or mine rish insurance, if any, shall be for Owners' account, but notwithstanding the provisions of clause 5 lereof, war risk insurance on hall and machinery on a mutually agreed value in exercs of the rate ruling at the date hereof shall be for Charteren' account. Any increase in war bonus to	275 276 277	
War Risks	the Haster Officer and Crew over and above that in effect on the date 36. (3) The matter shall not be required or bound to sign bills of leding for any blockaded port or for any port which the master or Owners in his or their discretion consider diagraps or impossible to cuter or reach.	275	shall be fo
	(2) (A) If any port of loading or of discharge named in this charter or to which the vessel may properly be ordered pursuant to the terms of the bills of lading be blockeded, or		accou
	(B) if order to any war, hostilities, warlike operations, civil war, civil commotions, revolutions, or the operation of international law (a) entry to any such port of loading or of discharge or the loading or discharge of earge at any such port of connected by the master or Owners in his or their discretion dangerous or prohibited or (b) it be considered by the master or Owners in his or their discretion dangerous or impossible for the vessel to reach any such port of loading or of dasharge.	263 264 265 256 287	
	Characters shall have the right to order the cargo or such part of it as may be affected to be loaded or Challegard at my other past of loading or of discharge within the range of loading or discharge ports respectively calclinated under the provisions of the charter (provided such other port is not blockhaded or that entry thanks or loading or discharge of cargo thatch is not in the master's or Openes' discretion dangerous or	288 257 290 291	
	profibiled). If in respect of a part of discharge no orders be received from Charterers within 45 hours after they or their agents have received from Owners a request for the nomination of a substitute post, Owners shall than be at fiberty to discharge the cuspo at any port which they or the master may in their or bis discretion occide on (whether within the range of discharge posts established under the provisions of the charter or not) and such	291 291 294 275	
	discharge shall be deemed to be due failifirent of the contract or contracts of affreightment so far as cargo so discharged is concerned. In the event of the cargo being loaded or descharged at any such other port within the respective range of loading or discharge ports established under the provisions of the charter, the charter shall be read in respect of freight and all other conditions whatsoever as if the voyage performed were that	296 297 298 298	
	originally designated. Hencever, if the vassed discharges the eargo at a port outside the range of discharges ports established unfor the provisions of the charter, freight shall be paid as for the voyage originally chargested and all extra expenses involved in reaching the actual port of discharge and for descharging the cargo therest shall be paid by Charteress or eargo over me. In this latter event Owners shall have a fun on the cargo for all such extra expenses.	301 301 201 201 304	
	(3) The vessel shall have fiberty to concept with any directions or recommendations as to departure, arrived, rootes, perts of cell, stepenges, destinations, rootes, waters, delivery or in any other wise whatsover given by the government of the nature under vil over lag the vessel salls or any other government or rectal authorisy or by any person or body acting or purporting to act as or with the authority of any such government or authority or by any committee or person having under the terms of the war ruler insurance on the vertel the right to five any such deviation, or recommendations. If by reason of or in compliance with any such directions or recommendation; anything is done or is not done, such shall not be deemed a deviation.	305 305 307 303 303 311 311	
	If by reason of or in compliance with any such direction or recommendation the vessel does not proceed to the part or parts of discharge originally discignated or to which the may have been ordered pursuant to the terms of the bills of lading, the vessel may proceed to any part of discharge which the master or Owners in his or their discretion may decide on and there discharge the eargo. Such discharge shall be deemed to be due fulfilment of the contract or contracts of affreightment and Owners shall be entitled to freight as if discharge had been effected on the port or parts originally designated or to which the vessel may have been ordered pursuant to the terms of the bills of lading. All extra expresses involved in reaching and desharging the eargo at any such other part of discharge shall be paid by Charterers and/or eargo owners and Owners shall have a lien on the eargo for	313 314 315 317 318 319 320	
	Charterers shall procure that all bilts of lading issued under this charter shall contain the foregoing clause so far as applicable to bills of lading.	321 321 321	2
Both to Diame Collision Clause	37. If the liability for any collision in which the vessel is involved while performing this charter falls to be determined in accordance with the laws of the United States of America, the following provision shall apply:	32: 32:	5
	"If the ship comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the number, mariner, pilot or the servents of the carrier in the caventian or in the management of the ship, the owners of the coods curried because with independy the carrier against all list, or liability to the orier or non-carrying slip or her owners is so far as such loss or liability represents here oil, or damage to, or any claim whatsoever of the owners of the studies only possible by the other or non-carrying ship or her owners to the owners of said goods and set off, recouped or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying ship or carrier.	32: 32: 32: 32: 33: 33: 33:	7 \$ 9 0
	The foregoing granismes shall also apply where the owners, operators or those in charge of any viety or ships or objects other their, or in addition to, the colliding ships or objects are at fault in respect to a contract."	33: 33:	4
	· Out G		

	Charterers shall procure that all bills of biding issued under this charter shall ever the a provision in the foregoing terms, to be applicative where the liability for any collision in which the vessel is involved falls to be determined in accordance with the laws of the United States of America.	315 317 338
New Jason Clause	38. General exercise shall be payable according to the York/Antwere Rules, 1959, and shall be adjusted in London but should education to made in accordance with the law and practice of the United States of America, the following provision shall apply:	339 340 341
	"In the event of accident, danger, danage or disaster before or after the commencement of the voyage, resulting from any cause whatsnever, whether due to negligence or not, for which, or for the consequence of which, the carrier is not responsible, by statute, contract or otherwise, the goods, shippers, consignees or owners of the power's shall contribute with the carrier in peneral average to the payment of any sacrones, lesses or expanses of a general average nature that may be made or incurred and shall pay salvage and special energies incurred in respect of the goods.	342 343 344 345 346 347
	If a salving ship is owned or operated by the carrier, salvage shall be paid for as fully as if the said salving ship or ships Utlanged to strangers. Such deposit as the carrier or his agents may done sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the goods, shippors, consigneds or owners of the goods to the carrier behave delivery."	348 349 350 351
	Charterers shall procure that all bills of lading issued under this cluster shall contain a provision in the foregoing terms, to be applicable where adjustment of general average is made in accordance with the laws and practice of the United States of America.	352 353 354
Paramount Clause	39. Charterers shall procure that all bills of lading issued under this charter shall contain the following Paramount Chruse:-	355 356
	"This bill of lading shall	357
	(1) in relation to the curriège of any goods from any port in Great Britain or Northern Ireland to any other port whether in or outside Great Britain or Northern Ireland have effect subject to the provisions of the Carriège of Goods by Sec. Act, 1924, and to the Rules contained in the Schedule thereto as applied by that Act and nothing herein contained shall be deemed a surrender by the Carrier of any of his rights or immunities or an increase of any of his responsibilities or liabilities under the said Act;	358 359 360 351 362
	(2) in relation to the carriage of any goods from any port of shipment in territory in which legislation similar in effect to the Carriage of Goods by Sea Act, 1924, of the United Kingdom is in force, have effect subject to such legislation and to the Fules contained in the Schedule therations applied by seel legislation and nothing herein contained shall be deemed to be a surrender by the Corner of any of his rights or instrumities under the said legislation or an increase of any of his responsibilities or liabilities under the said legislation; and	363 364 365 366 367 368
	(3) in any other case have effect as if the contract of carriage herein contained were a contract of carriage to which the provisions of the Carriage of Goods by Sea Act, 1924, of the United Kingdom applied and the Carrier shall be entitled to the benefit of the privileges, rights and imammics conferred by the said Act and the Rules contained in the Schedule thereto as if the same were herein specifically set out.	369 370 371 372
	If any term of this bill of Inding be repugnent to the provisions of the said Act or to the said legislation to any extent, such term shall be void to that extent but no further."	373 374
Law and Litigation	40. (a) This charter shall be construed and the relations between the parties determined in accordance with the law of England.	375 376
	(b) Any dispute arising under this charter shall be decided by the English Courts to whose jurisdiction the parties agree whatever their domecile may be:	377 378
	Provided that either party may elect to have the dispute referred to the arbitration of a single arbitrator in London in accordance with the provisions of the Arbitration Ast, 1959, or any statistics modification or re-constituent thereof for the time being in force. Such election shall be made by written notice by one party to the other not later than 21 days after receipt of a notice given by one party to the other of a dispute having arisen under this charter.	379 380 381 382 383
	41. Charterers agree to reimburse Owners for TOVALOP (or any success	SSOF
	or substitute organization) insurance premium and costs.	
		an ,
	42. Owners have the option to perform periodical drydocking in Japa with 90 days advance notice and Charterers to agree to send the	e
	vessel to Persian Gulf. In this case no hire shall be payable	
	for the following period as offhire:	
	From the time of passing Quoin Island for loading cargo of Own	ers
•	account to Japan, to the time of passing Quoin Island for load	ing
	cargo of Charterers account from Japan after drydocking.	
	THE SAMEO STEAMSHIP CO., LTD. NEWFOUNDLAND REFINING COMPANY	LIMITED

Stands awa Isamu Nishikawa, Managing Director Attorney in Fact

DATE : Quy \$ 8 1972

DELIVERY CERTIFICATE

THIS IS TO CERTIFY that Japanese registered steam tank vessel called "BARBARA T. SHAHEEN" (DWT 269,419 Long Tons) was duly delivered from Owners, The Sanko Steamship Co., Ltd. to Charterers, Newfoundland Refining Co., Ltd. at 11:30 Local Time, (02:30 G.M.T.), on 12th June, 1975., at Mitsui Shipbuilding & Engineering Co., Ltd., Chiba Works, in accordance with terms of the Time Charter dated August 8, 1972.

At that time followings were remained on board :-

Diesel Oil: 293.60 Long Tons.

Fuel Oil : 260.00 Long Tons.

Owners,

The Sanko Steamship Co., Ltd.

Charterers,

Newfoundland Refining Co., Ltd.

A. SAKAI managing Director

EXHIBIT 4--AGREEMENT DATED MARCH 20, 1968 ANNEXED TO AFFIDAVIT OF ROY M. FURMARK

March 80, 1958

AGREEMENT

During conversations held in New York between

Shaheen Natural Resources Company, Inc., an Illinois corporation, having its principal place of business at 90 Park Avenue,

New York, New York 10016 (SNR), and The Sanko Steamship

Company, Ltd., a corporation established in Osaka, Japan,

having its principal place of business at 2-25 Edobori,

Kamidori, Nishi-ku, Osaka, Japan (Charterer), and Ataka &

Co., Ltd., a corporation established in Japan, having its

principal place of business at 14 Imabashi, 5 chome, Higashi-ku,

Osaka, Japan (Broker) concerning the construction, barebeat

chartering, use under a contract of affreightment and financing

of combination carrier of 135,000-160,000 DWT (the Vessel),

the following has been agreed:

I. PURPOSE

sontract with Broker, as contractor, for the construction of the Vessel at Charterer's designated shippard, which will be a recognized Japanese shippard. The Vessel, when completed, will be chartered to Charterer on a firm non-cancellable bareboat charter for a period of fifteen years. Charterer will enter into a long term contract of affreightment with Newfoundland Refining Company Limited (NRC) on a firm non-cancellable basis, covering the Vessel and another vessel

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Exhibit 4

owned by Charterer or its designee for a period of fifteen years, beginning from the delivery date of the Vessel to transport the maximum carrying capacity of the vessels covered by the long-term contract of affreightment, which is estimated to be approximately 1,000,000 long tens of crude oil per annum, from Persian Gulf to Come By Chance, Newfoundland. Charterer and NRC will also enter into a short-term contract of affreightment to begin in the first quarter of 1970 and to extend until the commencement of the long-term contract of affreightment or April 30, 1971, whichever is earlier, to transport approximately 500,000 long tons, 10% more or less at Charterer's option, of crude oil from Persian Gulf to Come By Chance, Newfoundland at a rate of US \$3.20/LT. For this short-term centract of affreightment, Charterer will supply its own yessels.

II. TYPE OF VESSEL, DELIVERY, SHIPBUILDING TERMS

SNR has authorized Broker to obtain from the Charter's designated shippard, plans, specifications and prices on the Vessel to be owned by the Liberian subsidiary of SNR as identified in paragraph I. The building yard selected shall be subject to approval by SNR. The delivery of the Vessel shall be as close as possible to the first quarter of 1971.

Broker is also to ascertain the maximum possible credit facilities obtainable from the Japanese Government and/ or Export Import Bank of Japan for construction of this type of Vessel.

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The plans, specifications, prices and payment terms when assembled are to be submitted to SNR for its final decision as to the size of the Vessel and for its final agreement as to price and approval of payment terms and any credit facilities to be obtained from the Japanese Government and/or the Export Import Bank of Japan.

The final contract, building plans and the final specifications shall also be approved by the Charterer, SNR and the building yard.

The construction of the Vessel shall be carried out under the supervision of the Charterer, and SNR under the building contract shall have the right to have its own supervisors at the shippard to review the plans and detailed drawings provided, however, that any negotiations with the shippard shall be made through the Charterer. Charterer and SNR shall mutually agree on any changes to be made in such plans, detailed drawings and specifications. The building contract, including the payment terms thereof, shall be subject to approval of the Japanese Government.

III. BAREBOAT CHARTER RATE

The calculation of the bareboat charter rate will be based on the following:

- (a) The DWT capacity of the Vessel;
- (b) The estimated cost of the Vessel;
- (c) A bareboat charter rate based on

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twice the cost of the Vessel amortized at the required interest rate for financing over a fifteen-year period.

For example, assuming a 137,000 DWT capacity, a cost of \$13,700,000 complete, and an interest rate of 6.5%, the bareboat charter rate would be \$1.7422 per DWT per month.

IV. LONG TERM CONTRACT OF AFFREIGHTMENT RATE

- A) Rate for vessel owned and to be operated by Charterer or its designee for cargo carried to Come By Chance, Newfoundland, from the Persian Gulf to be at a basic freight rate of U. S. Two Dollars and Seventy-five cents (U. S. \$2.75) per long ton of cargo. This rate is based on and subject to the following:
 - (1) Building cost of the Vessel will not, at the time of signing the building contract, be substantially changed from the present level, of \$90-\$100/DWT.
 - (2) Insurance rate for hull and machinery will be at present level when first year's rate fixed by Underwriters. Charterer refers to Underwriters current rate for the same type vessel as one percent (1%).
 - (3) Actual time necessary for loading and discharging will be the same as that for a major oil terminal which is estimated to be within four days.

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NRC will make an adjustment of freight rate in case certain changes occur on the above items and if and when Charterer requests them to do so, providing them with reliable data.

B) Rate for the Vessel will be calculated on the following basis, assuming that the final rate under IV A) would be US\$2.75, that the bareboat charter rate will be US\$1.7422 per DWT per month, and that the vessel would be of 137,000 DWT:

US\$2.75 + (bareboat charter rate - US\$0.8711) x 137,000 DWT x 12 months 390,000 LT

which, for a bareboat charter rate of US\$1.7422 per DWT per month, would yield:

US\$2.75 + $\frac{(\text{US$1.7422} - \text{US$0.87.L}) \times 137,000 \text{ DWT} \times 12 \text{ months}}{390,000 \text{ LT}} = \text{US$6.422 per LT}$ Average rate for both vessels would be estimated at (US\$2.75 + US\$6.422) $\times 1/2 = \text{US$4.586}$ per long ton of cargo.

The details of terms and conditions, such as escalation clause, force majeure, etc., will be included in the formal contract of affreightment.

v. CONDITIONS

The transactions contemplated by this agreement are conditioned on fulfillment of the conditions listed below, the obtaining of satisfactory commitments on or prior to June 30, 1968 from the lending institutions referred to in paragraph VII, and the satisfaction of the terms and conditions of such commitments:

- (a) Execution and delivery of this agreement pursuant to due authorization by all parties hereto, on or prior to April 1, 1968.
- (b) Agreement by SNR, NRC and Charterer on the form of bareboat charter to be entered into between SNR's Liberian subsidiary and Charterer and the form of contract of affreightment to be entered into between Charterer and NRC, and agreement by SNR and Charterer on the form of the escrow agreement referred to in paragraph VI and the building contract and final plans and specifications of the vessel. Proposed forms of the bareboat charter and the contracts of affreightment will be submitted to all parties hereto within fifteen days after the execution and delivery of this agreement by all parties hereto.

VI. SECURITY FOR PERFORMANCE OF THE LONG TERM CONTRACT OF AFFREIGHTMENT

some will deposit under an escrow agreement, with a mutually satisfactory escrow agent, as security for performance by NRC of its obligations under the long term contract of affreightment, stock of a corporation, the identity of which shall be subject to approval by Charterer. Such approval shall be an additional condition to the transactions contemplated herein. The stock to be deposited with the escrow agent shall have a market value at the time of deposit of not less than one-half of the principal amount of the debt which is to be incurred by the Liberian subsidiary and secured by pledge of the bareboat charter.

Upon occurrence of an event of default under the long term contract of affreightment, the escrew agent shall be irrevocably authorized to sell the deposited stock under specific instructions of Charterer and apply the proceeds toward the prepayment of one-half of the principal amount of the debt of the Liberian subsidiary. The bareboat charter shall provide for the charter hire to be reduced in the same proportion in which the principal amount of the debt is reduced by such prepayment. At the end of each year of the term of the bareboat charter, the escrew agent shall deliver to SNR the stock, if any, whose value, based on the average market price of such stock for the preceding two months, is in excess of 120 per cent of one-half of the then cutstanding principal amount of such debt.

VII. PROCEDURES

Upon the due authorization, execution and delivery of this agreement, SNR and its investment bankers (with such assistance from Charterer and Broker as SNR may reasonably request) will proceed to approach lending institutions with respect to obtaining commitments for the debt to be incurred in order to finance the Liberian subsidiary. Promptly after the commitments of the lending institutions have been obtained, the preparation of all instruments needed to carry out the financing will begin, and SNR and its investment bankers will begin negotiations for construction financing (giving consideration to the possibility of arranging for periodic takedowns from the long-term landing institutions to finance the construction).

VIII. THE PRIVILEGED NATURE OF THIS DOCUMENT

It is mutually understood and agreed by all parties to this agreement that this document is of a confidential nature and that its contents will not be divulged to any other party except in the necessary execution of the terms hereof.

No disclosure of the fact that SNR or NRC is involved in this transaction will be made to any shippard or any third parties to be contacted under this agreement unless specifically authorized in writing by SNR.

IX. INDEMNIFICATION

The fee payable to Broker shall be 1-1/2% of the basic freight rate. The basic charter rate for the bareboat charter will be US\$0.8711 per DWT per month. The basic freight rate for the short term contract of affreightment shall be US\$3.20/LT, and the basic freight rate for the long term contract of affreightment shall be the final rate determined under IV A. SNR's Liberian subsidiary shall pay the fee relating to the bareboat charter, and Charterer will pay the fee relating to the contracts of affreightment. The brokerage fee on the contracts of affreightment shall be payable on freights, deadfreights and demurrage. Broker hereby agrees to indemnify and hold harmless SNR, NRC, SNR's Liberian subsidiary and Charterer from and against any liability, for or in respect of any other brokers or agents' fees or commissions arising out

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of or incurred in connection with the subject matter of this agreement (other than those of investment bankers of SNR).

SHAHEEN NATURAL RESOURCES COMPANY, INC.

By Con M Juna Cuk Executive Vice President

NEWFOUNDLAND REFINING COMPANY LIMITED

Fresident

THE SANKO STEAMSHIP COMPANY, LIMITED

By WishRawa Senior Managing Director

ATAKA & CO., LTD.

Directo

EXHIBIT 5--AGREEMENT DATED AUGUST 8, 1972 ANNEXED TO AFFIDAVIT OF ROY M. FURMARK

AGREEMENT

between

NEWFOUNDLAND REFINING COMPANY LIMITED

and

THE SANKO STEAMSHIP COMPANY LIMITED



AGREEMENT

IT IS HEREBY UNDERSTOOD AND AGREED between Newfoundland Refining

Company Limited (hereinafter referred to as "Charterers") and The

Sanko Steamship Company Limited (hereinafter referred to as "Owners")

as follows.

- 1. Time Charter Party dated December 23, 1970 for MHI Hull No. 1701 and Voyage Charter Party dated December 23, 1970 for Contract of affreightment between Charterers and Owners shall be cancelled, subject however to the satisfactory conclusion of Time Charter Parties of the vessels noted hereunder.
- 2. Following Charter Parties shall be closed between Charterers and Owners:
 - A. Time Charter

Vessel

: abt. 233,000 DWT Tanker (MHI Hull No. 1701)

Japanese, Liberian, Panamanian or

Singapore flag

: Classed NK or equivalent

: abt. 19.81 meters draft

: Other particulars to be advised by FORM B of

"SHELLTIME 3"

Period

: 10 (Ten) years time Charter 14 days more or

less at Charterers option

Laydays

: August 15, 1973

Cancelling

: October 15, 1973

Exhibit 5

Delivery/Redelivery : at a port in Japan or at a point not further

in distance from Persian Gulf than Japan

Performance : Guarantee speed average laden and ballast

16.50 knots on daily consumption of 160 long

tons fuel oil

Hire : U.S. Dollars 2.53 (Two dollars fifty three

cents) per long ton on Vessel's total

deadweight on classified summer freeboard per

calendar month

Charter Party form : "SHELLTIME 3"

Other terms and : as per Time Charter Party dated Dec. 23, 1970

conditions
between Charterers and Owners

Combined with

B. Contract of Affreightment at Charterers option to be declared by December 31, 1972 as follows:

Quantity : 1,000,000 long tons 10% more or less at Owners.

option

First shipment : September/October, 1973 at Persian Gulf

Last shipment : March/April, 1974 at Persian Gulf

Cargo size : 100,000 tons/270,000 tons

Freight Rate : WORLDSCALE 58.6% as amended (equivalent T/C

Rate U.S.52.40 on SASEBO Hull No. 230)

Charter Party form : "SHELLVOY 3"

Other terms and : as per Voyage Charter Party dated December conditions

23, 1970 between Charterers and Owners

Combined with

Exhibit 5

C. Time Charter

Vessel

: abt. 271,000 DWT Tanker (SASEBO Hull No. 230)

: Japanese, Liberian, Panamanian or Singapore flag

: Classed NK or equivalent

: abt. 21.30 meters draft

: Other particulars to be advised FORM B of "SHELLTIME 3"

Period

: 9½ (Nine years and six months) years

Time Charter 14 days more or less at Charterers
option,

However, in case Charterers declare not to perform B. Contract of Affreightment, the total period of this Time Charter to be 10 (Ten) years 14 days more on less at Charterers option.

Laydays

: April 1, 1974

Cancelling

: May 31, 1974

Delivery/Redelivery: at a port in Japan or at a point not further in

distance from Persian Gulf than Japan

Performance : Guarantee speed average laden and ballast 16.10

knots on daily consumption 175 long tons fuel oil

Hire

: U.S. Dollars 2.40 (Two dollars forty cents)

per long ton on Vessel's total deadweight on

classified summer freeboard per calendar month

Charter Party form : "SHELLTIME 3"

Other terms and conditions

: as per Time Charter Party dated December 23,

1970 between Charterers and Owners

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Exhibit 5

Combined with

D. Time Charter

Vessel : abt. 276,000 DWT Tanker (Yard and Hull Number

to be advised by end of 1973)

: Japanese, Liberian, Panamanian or Singapore

flag

: Classed NK or equivalent

: abt. 21.70 meters draft

: Other particulars to be advised FORM B of

"SHELLTIME 3"

Period : 8 (Eight) years time charter 14 days more or

less at Charterers option

Laydays : January 1, 1975

Cancelling : June 30, 1975

Delivery/Redelivery : at a port in Japan or at a point not further

in distance from Persian Gulf than Japan

Performance : guarantee speed average laden and ballast

16.10 knots on daily consumption 175 long tons

fuel oil

Hire : U.S. Dollars 2.22 (Two dollars twenty two cents)

per long ton on Vessel's total deadweight on

classified summer freeboard per calendar month

Charter Party form : "SHELLTIME 3"

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Exhibit 5

Other terms and conditions

: as per Time Charter Party dated December

23, 1970 between Charterers and Owners

Newfoundland Refining Company Limited

The Sanko Steamship Company Limited

ROY M. FURMARK

Executive Vice President

ISAMU NISHIKAWA

Managing Director

Ataka & Co., Utd. as brokers only

TOSHIO MIZUTA

Executive Vice President & Director

MEMORANDUM AND ORDER

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

THE SANKO STEAMSHIP CO., LTD.,

Plaintiff,

- against -

NEWFOUNDLAND REFINING COMPANY, LIMITED,:
NEWFOUNDLAND REFINING COMPANY LIMITED
U.S.A., PROVINCIAL BUILDING COMPANY:
LIMITED, PROVINCIAL REFINING COMPANY
LIMITED and SHAHEEN NATURAL RESOURCES;
COMPANY, INC.,

Defendants.

DIS 7000 N.Y.

MEMORANDUM AND ORDER

76 Civ. 756

KNAPP, D.J.

The plaintiff, pursuant to Admiralty Rule B(1) and F.R.C.P. 64, has invoked "the remedies provided by state law for attachment" and seeks to levy upon certain New York bank balances claimed to be owing to some or all of the defendants. The particular provision of state law which plaintiff has invoked is C.P.L.R. §6201, which so far as relevant, provides:

"An order of attachment may be granted in any action, . . . where the plaintiff has demanded and would be entitled, . . . to a money judgment against one or more defendants, when:

1. the defendant is a foreign corporation or not a resident or domiciliary of the state; " [emphasis supplied]

Memorandum and Order

Plaintiff duly filed an action in this court alleging breach by defendants of a time charter party agreement. In order to avoid the pitfalls suggested in <u>Sugar v. Curtis Circulation Co.</u> (S.D.N.Y. 1974) 383 F.Supp. 643, plaintiff did not request the court to issue an attachment ex parte, but sought such relief by an appropriate 1/ Order to Show Cause.

Thus forewarned, the defendant countered with a motion 2/
to dismiss the underlying action, contending that if such motion
were granted there would be no "action" to provide the underpinnings
of an attachment under the above-quoted statute. For reasons which
follow, we believe that defendants' position is well-taken, that the
action should be dismissed, and, accordingly, that there is no
basis for an attachment.

DISCUSSION

The underlying action against the defendants is for breach of contract. The contract sued upon, however, contains a forum selection clause confining actions for disputes arising thereunder to the Courts of England. Thus the contract provides:

- "40. (a) This charter shall be construed and the relations between the parties determined in accordance with the law of England.
- , (b) Any dispute arising under this charter shall be decided by The English Courts to whose jurisdiction the parties agree whatever their domicile may be:

Provided that either party may elect to have the dispute referred to the arbitration of a

single arbitrator in London in accordance with the provisions of the Arbitration Act, 1950, or any statutory modification of re-enactment thereof for the time being in force."

It is defendants' contention that this clause is valid and precludes the plaintiff from invoking the jurisdiction of this court and, therefore, requires that the action be dismissed. We find that defendants' position is conclusively established by Bremen v. Zapata Off Shore Co. (1972) 407 U.S. 1. That case laid at rest any doubt as to the enforceability of such clauses and specifically held that 3/ they were applicable to in rem actions. Id. at 20. Plaintiff correctly points out that no question of the validity of an attachment 4/ was before the Court in that case. However, we deem that circumstance to be irrelevant. The Supreme Court was obviously not concerned with the provisions of New York C.P.L.R. §6201. What it did establish was a rule of law which entitles defendants to a dismissal of this action. Such dismissal makes an attachment unavailable under 5/.

Ordinarily this ruling, making any attachment unavailable, would make it unnecessary to determine against which of the several defendants a duly issued attachment would have been effective.

6/
However, the Court of Appeals has indicated a desire to have a full record before it, so we shall proceed to make findings on this latter issue.

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Memorandum and Order

With respect to the attachability of the funds of the defendants other than the first named defendant (assuming an otherwise valid attachment) we find as follows:

- (a) On the papers before us plaintiff has not born the burden of establishing its entitlement to an attachment of the funds of any but the first named defendant; however,
- (b) under the doctrine announced in Judge Moore's opinion in National Marine Service Inc. v. C. J.

 Thibodeaux & Company (5th Cir. 1974) 501 F.2d 940 (by which we are persuaded), plaintiff has shown enough to entitle it to conduct further discovery on this issue.

Accordingly, for reasons more fully stated on the record in open court, should the Court of Appeals reverse my decision as to the applicability of Bremen (and issue no further instructions) I shall immediately issue an attachment as to the first named defendant, and hold the matter in status que as to the remaining defendants, referring the issue as to their status to a Magistrate with instructions to supervise discovery and to hear and report.

In the meantime, for the reasons stated in the first part of this opinion, the action is dismissed and the TRO is vacated.

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Memorandum and Order

The order vacating the TRO is, however stayed until March 11, 1976 at 5:00 P.M. on condition that:

- 1. All defendants may make disbursements from the accounts in the Sumitomo Bank, Ltd., the European-American Bank & Trust Co., and Manufacturers Hanover Trust Company, based upon the undertaking of all defendants to plaintiff that the only payments which will be made from such bank accounts will be payments of current accounts in the ordinary course of business; conformance with such undertaking of defendants shall not be the responsibility of said banks.
- 2. In the event the attachment of any of said bank accounts should be reinstated such attachment shall be deemed to have been made upon the amounts in each of said accounts as of the date and hour each of such banks were served with a copy of the temporary restraining order dated February 17, 1976, and plaintiff shall be deemed to have an attachment lien on the company's cash proceeds to the extent thereof.
- 3. The security posted by plaintiff shall be extended until 5:00 P.M. March 11, 1976.
- Anything in the foregoing to the contrary notwithstanding, the banks may honor any checks presented

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Memorandum and Order

to them on any of the accounts subject to the restraining order, it being the defendants' responsibility to see that their representations are carried out.

SO ORDERED. :

Dated: New York, New York
March 4, 1976.

WHITMAN KNAPP, U.S.

FOOTNOTES

- Contained in said Order to Show Cause, which the Court made returnable 3 days later, was a temporary restraining order, enjoining defendants from removing or releasing \$3,000,000 from their respective New York bank accounts. This TRO was later modified on certain conditions which allowed the defendants to conduct their daily business affairs.
- This "motion" was made orally on the record, since the press of time did not permit of the formal filing of the appropriate papers.
- The Court did leave open, however, the question of whether the clause there involved was "invalid for such reasons as fraud or overreaching" or whether the enforcement of such clause "would be unreasonable or unjust" Id, at 15. In order to meet that burden, the Court observed that the party seeking to escape the forum selection clause must demonstrate that trial in the contractual forum "will be so gravely difficult and inconvenient that he will for all practical purposes be deprived of his day in court".

 Id., at 18. At oral argument before us, the instant plaintiff conceded that it could make no such showing.
- The parties in <u>Bremen</u> specifically eliminated that issue by agreeing upon the posting of security that was to be available in London as well as Florida. See 407 U.S. 1,4, n.3, as explained by Petitioner's Reply Brief on certiorari, at p. 10.
- We note in passing that nothing turns on the circumstance that plaintiff proceeded by Order to Show Cause rather than by procuring an ex parte attachment. Had the latter course been followed, a dismissal of the action would have instantly triggered a vacatur of the attachment. So far as we know, there is no provision of New York law which would authorize holding an attachment "in limbo" pending the outcome of litigation going forward in some other jurisdiction.

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6/

Since \$3,000,000 and a possible question of law of first impression are here involved, plaintiff wished to and did immediately appeal my decision. Before agreeing to hear the case on the merits, the Court of Appeals remanded same to this court for the purposes of establishing a complete record with respect to the relationship between the several defendants and the plaintiff.

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CONSENT ORDER AMENDING MEMORANDUM AND ORDER

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK		
THE SANKO STEAMSHIP CO., LTD.,	-x :	
Plaintiff,	:	
-against-	:	ORDER
NEWFOUNDLAND REFINING COMPANY, LIMITED,	:	76 Civ. 756
NEWFOUNDLAND REFINING COMPANY LIMITED U.S.A., PROVINCIAL BUILDING COMPANY LIMITED, PROVINCIAL REFINING COMPANY		70 CIV. 750
LIMITED, PROVINCIAL HOLDING COMPANY LIMITED and SHAHEEN NATURAL RESOURCES	•	
COMPANY, INC.,	:	
Defendants.		

WHEREAS on March 4, 1976, the HONORABLE WHITMAN KNAPP, U.S.D.J., signed a Memorandum and Order in the above action, a copy of which is attached hereto; and

WHEREAS, on or about March 9+ H, 1976, the HONORABLE WILLIAM H. MULLIGAN, Judge of the United States Court of Appeals for the Second Circuit, stayed the Ordered issued by JUDGE KNAPP vacating the Temporary Restraining Order herein until March 16, 1976; and

WHEREAS the United States Court of Appeals for the Second Circuit has this day ordered an expedited appeal on the sole issue of whether this Court was correct in dismissing the complaint herein on the basis of Bremen v.

Zapata Off-Shore Company, 407 U.S.1, (1971);

NOW, THEREFORE, on consent of the parties, it is ORDERED

82 Consent Order Amending Memorandum and Order The attached Memorandum and Order dated March 4, 1976, is hereby amended to delete therefrom the following: Ordinarily this ruling, making any attachment unavailable, would make it unnecessary to determine against which of the several defendants a duly issued attachment would have been effective. However, the Court of Appeals has indicated a desire to have a full record before it, so we shall proceed to make findings on this latter issue. With respect to the attachability of the funds of the defendants other than the first named defendant (assuming an otherwise valid attachment) we find as follows: On the papers before us (a) plaintiff has not born the burden of establishing its entitlement to an attachment of the funds of any but the first named defendant; however, (b) under the doctrine announced in Judge Moore's opinion in National Marine Service Inc. v. C. J. Thibodeaux & Company (5th Cir. 1974) 501 F. 2d 940 (by which we are persuaded), plaintiff has shown enough to entitle it to conduct further discovery on this issue.

Accordingly, for reasons more fully stated on the record in open court, should the Court of Appeals reverse my decision as to the applicability of Bremen (and issue no further instructions) I shall immediately issue an attachment as to the first named defendant, and hold the matter in status quo as to the remaining defendants, referring the issue as to their status to a Magistrate with instructions to supervise discovery and to hear and report.

Consent Order Amending Memorandum and Order

2. As concerns the attachability of the funds of the named defendants, other than NEWFOUNDLAND REFINING COMPANY will be a LIMITED, this issue leaves referred to MAGISTRATE to be determined with instructions to supervise

discovery as to the commonness of said defendants and the right of the plaintiff to obtain a valid attachment against their funds and credits and to further report his findings and conclusions to me;

IT IS FURTHER ORDERED that the Order of JUDGE WILLIAM H. MULLIGAN staying the Order of March 4, 1976 vacating the Temporary Restraining Order is hereby extended for ten days after I issue further findings of facts and conclusions of law based upon the findings of MAGISTRATE

DATED: New York, N.Y. March 16th, 1976.

W.K.

WHITMAN KNAPP

Consented to:
Bigham Englar Jones & Houston

WHITMAN KNAPP So ordered.

BIGHAM ENGLAR JONES & HOUSTON Attorneys for Plaintiff Office and P.O. Address 99 John Street New York, N.Y. 10038 (212) 732-4646

Manning Carey & Redmond

MANNING, CAREY & REDMOND Attorneys for Defendants Office and P.O. Address 122 East 42nd Street New York, N.Y. 10017 Attorney Stor Apprilated Actions